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ABSTRACT

These Congressional Hearings consist of public testimony before the House Judiciary Committee's Subcommittee on Criminal Justice concerning proposed legislation designed to prohibit the sale of children in interstate and foreign commerce. Much of the testimony focuses on the increasingly widespread, marginally legal practices of selling infants into adoption and privately arranging adoptions for a fee. Problems of constructing precise legislative language to criminalize and halt black market baby sales are discussed. Included is testimony counter to the intent of the proposed legislation. (RH)

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SALE OF CHILDREN IN INTERSTATE AND FOREIGN COMMERCE

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

SALE OF CHILDREN IN INTERSTATE AND FOREIGN COMMERCE

MARCH 21 AND APRIL 25, 1977

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SALE OF CHILDREN IN INTERSTATE AND FOREIGN COMMERCE

MONDAY, MARCH 21, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON CRIMINAL JUSTICE,
Washington, D.C.

The subcommittee met at 10 a.m. in room 2237 of the Rayburn House Office Building; Hon. Sam B. Hall, Jr., presiding.

Present: Representatives Hall, Wiggins, Hyde, and Gudger.

Staff members present: Thomas W. Hutchison, counsel; Toni Lawson, assistant counsel; and Raymond V. Smietanka, associate counsel.

Mr. HALL. I think it is time to commence this hearing. At the outset I would like to make these comments, if I may.

The subcommittee has been asked to permit coverage of this hearing, in whole or in part, by means of motion picture photography, still photography or recording device. Rule V(a) of the Judiciary Committee Rules of Procedure allow such a coverage if the subcommittee approves the request.

Are there objections to such coverage? I hear none. Such coverage is permitted.

Today the Subcommittee on Criminal Justice opens hearings on legislation sponsored by one of its members, Representative Henry J. Hyde. The legislation, H.R. 117 and H.R. 2826, is designed to prohibit the sale of children in interstate and foreign commerce.

Mr. Hyde has been joined in his sponsorship of this legislation by 24 of our colleagues. We will hear from several witnesses, including Representative Robert K. Dornan, our colleague from California, who is one of the cosponsors of the legislation, and public witnesses.

At the start, the Chair would like to acknowledge Mr. Hyde's effort in arranging this hearing. And now I recognize Mr. Hyde for an opening statement.

Mr. HYDE. Thank you, Mr. Chairman. It's become increasingly more difficult for many couples to adopt children through normal channels because there just aren't the adoptable babies available as much as there used to be for various reasons that are well known to all. Many couples in desperation turn to the black markets, and a baby, then, is reduced to a chattel and sold for cash and many times to the highest bidder. The future welfare of the child is rarely considered and often the natural mother, as well as the future parent are emotionally and financially victimized.

Meanwhile, black-market baby sellers are contemptuous of State laws, often operate interstate and international with little fear of criminal prosecution. There is a great void in the law governing this situation. They are the only real winners in this game of selling children.

The fees of from $10,000, $15,000 and $25,000 are not uncommon. They are going to continue to operate in defiance of the law, exploiting their victims and profitting from their crimes, unless Federal legislation is passed which will, for the first time, give Federal prosecutors the necessary ammunition to fight the black-market baby racket.

We prepare such legislation. I am sure it can be improved and with the advice and counsel of our witnesses, many of whom are very experienced and expert in this field—in fact, all of them are—I am hopeful we will get some effective legislation. Thank you, Mr. Chairman.

Mr. HALL. Mr. Wiggins, do you have any statement?

Mr. WIGGINS. No.

Mr. HALL. Before calling our first witness, I would like to point out that eight witnesses are scheduled to testify today and since the House is scheduled to go into session at noon, we will have to recess our hearing at that time. And in the interest of fairness to each witness, we will divide the time equally among them.

Mr. HYDE. May I suggest, Mr. Chairman, that the committee and counsel hold their questions until perhaps as many of the panel have testified and that the witnesses—because many of them have traveled great distances and I think if we just write down our questions we might be more productive.

Mr. HALL. I have as the first witness, Representative Robert K. Dornan. Is he here?

Mr. DORNAN. Yes, Mr. Chairman.

Mr. HALL. Do you have a prepared statement?

Mr. DORNAN. I do, Mr. Chairman.

Mr. HALL. Without objection, that statement will be made a part of the record.

[The prepared statement of Representative Dornan follows:]

PREPARED STATEMENT OF HONORABLE ROBERT K. DORNAN

Mr. Chairman: First of all, I would like to thank you and the Members of the subcommittee for permitting me to address you this morning. May I also say that I admire the alacrity with which this subcommittee has begun consideration of this legislation. I am aware of the busy legislative calendar this subcommittee faces. Your consideration of this bill so early in the session reveals your awareness of the seriousness of the problem.

Baby selling was once a term found only in the most ghoulish of fiction. Unfortunately, it is now a prevalent and growing problem in our society. The desire to be a parent has always presented a demand to adopt newborn infants. However this desire has become increasingly desperate in the face of widespread use of birth control measures, more liberalized attitudes toward unmarried mothers keeping their children and the legalization of abortion.

The baby seller has stepped into this situation and has found a way to make a profit from the tragedy and needs of the unfortunate. The baby seller exploits those people who wish to adopt by finding now scarce adoptable children. He seeks a "finders fee"—actually a purchase price for the infant. Once the baby has been reduced to a commodity in this manner, the basic law of supply and demand takes over. The supply of infants has steadily decreased and, I understand, "finders fees" of $25,000 are no longer uncommon.

This is not a local or regional problem. Studies made by the various prosecutory agencies around the country have revealed a loosely connected nationwide network of persons engaged in baby selling who mutually exchange children from one State with adopting parents from another. This has proven to be a very lucrative field of occupation for the baby seller. And the risks involved are minimal. In many instances, baby selling is only a misdemeanor. There is little

likelihood of a baby seller going to jail. In most cases, they must pay only a fine. This can be looked upon as the cost of doing business.

The victims of this crime are not just the babies. Both the natural mothers and the adoptive parents are victimized. The mother is the first victim.

Since the key to developing any black market baby operation is the ability to establish a steady and reliable flow of infants, it is entirely feasible that baby sellers pay women to have babies for the purpose of sale. In fact, the evidence bears this out. Now, this appears to me to be the ultimate in sexual exploitation and degradation. Job and social discrimination pale next to this practice.

I should add that it is my opinion that few mothers who offer their children for adoption fall into this category of women. The sole concern of most of them is the welfare of their child. I would venture to say that few actually receive more than maintenance as the price for giving up their child.

The second victim of the baby seller is the adoptive parent. Although these people are lawbreakers, they are perhaps the most pitiable. They are more victims than collaborators in crime. They have a desperate need to be a parent. These victims realize that if they choose to go through legitimate channels, they will have to wait for 5 or more years. They want a child to love so desperately that they are willing to pay any price and go to any ends to effect a legal adoption. The baby seller tells them that he can help for a "finders fee." He tells them that he can get them the legal adoption and the infant they need. Not all of these people are rich. Many cannot afford the fee. But like all loving parents, they are willing to sacrifice their own financial needs for those of their child.

The third victims of the black marketeers is, of course, the baby. While oblivious to what is happening, he is actually placed in the most degrading of all situations. He is a commodity to be bid for. The highest bidder gains custody and control. By most men's definition, this is slavery. Oblivion does not make the fact any less true.

It is the obligation of us who are not oblivious to what is happening to stop the selling of human beings and the victimization of natural and adoptive parents.

Thank you.

TESTIMONY OF HON. ROBERT K. DORNAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. DORNAN. Mr. Chairman, I would like to thank you and members of the subcommittee for permitting me to address you this morning. May I also say that I admire the speed with which this subcommittee has begun consideration of this legislation. Your consideration of this bill so early in the session reveals your awareness of the seriousness of this problem.

Baby selling was once a term found only in the most ghoulish of fiction. Unfortunately, it is now a prevalent and growing problem of our society. The desire to be a parent has always presented a demand to adopt new infants. However, this desire has become increasingly desperate in the face of widespread use of birth control measures, more liberalized attitudes toward unmarried mothers keeping their children, and the legalization of abortion.

The baby seller has stepped into this situation and has found a way to make a profit from this tragedy and the needs of the unfortunate. The baby seller exploits those people who wish to adopt by finding now scarce adoptable children. He seeks a finder's fee, which is actually a purchase price for the infant. Once the baby has been reduced to a commodity in this manner, the basic law of supply and demand takes over. As Mr. Hyde has said, infants have steadily increased, and I understand finders' fees of $25,000 are no longer uncommon.

This is not a local or regional problem. Studies made by the various prosecutory agencies around the country have revealed a loosely con-

nected nationwide network of persons engaged in baby selling who mutually exchange children from one State to another with adopting parents from another State. This has proven to be a very lucrative field of occupation for the baby seller. And the risks involved are minimal. In some instances, baby selling is only a misdemeanor. There is little likelihood ever of a baby seller going to jail. In most cases, they must only pay a fee, and this they look upon simply as a cost of doing business.

The victims of this crime are not just the babies. Both the natural mothers and the adoptive parents are victimized. And the mother is always the first victim.

Since the key to developing any black-market baby operation is the ability to establish a steady and reliable flow of infants, it is feasible that baby sellers pay women to have babies for that purpose of sale. In fact, the evidence now bears this out. Now, this appears to me to be the ultimate in exploitation of human sexuality and the ultimate in degradation. Job and social discrimination pale next to this practice.

I should add that it is my opinion that few mothers who offer their children for adoption fall into this category. The sole concern of most of them is the welfare of their child. I would venture to say that few actually receive more than maintenance as the price for giving up the child.

The second victim of the baby seller is the adoptive parent. Although these people are lawbreakers, they are perhaps the most pitiable. They are more victims than collaborators in this crime. They have a desperate need to be a parent. These victims realize that if they choose to go through legitimate channels, they will have to wait in some instances for more than 5 years. They want a child to love so desperately that they are willing to pay any price and to go to any ends to effect a legal adoption. The baby seller tells them that he can help for this finder's fee. He tells them that he can get them the legal adoption and the infant they need. Not all of these people are rich. Many cannot even afford the fee. But like all loving parents, they are willing to sacrifice their own financial needs for those of the child.

The third victim of the black marketeers is, of course, the baby itself. While oblivious to what is happening, he or she is actually placed in the most degrading of all situations. He or she is a commodity to be bid for. The highest bidder gains custody and control. By most men's definition, this is slavery. Oblivion does not make the fact less true.

This is the obligation of us who are not oblivious to what is happening to stop the selling of human beings and the victimization of natural and adoptive parents.

Mr. Chairman, I thank you and the committee members for allowing me to make my statement.

Mr. HALL. Thank you.

As indicated, we will wait a little bit further for questions.

Our next witness is Ms. Pamela Zekman, an investigative reporter for the Chicago Sun-Times.

Mr. HYDE. Mr. Chairman, while Ms. Zekman is assuming her place at the witness table, I may comment that she and Bob Olmstead, of the Chicago Sun-Times, did an extensive series on this subject which

graphically illustrated the dangers and which really provoked this legislation.

Mr. HALL. Ms. Zekman, do you have a prepared statement?

Ms. ZEKMAN. Yes; I do.

Mr. HALL. All right. It will, without objection, be made a part of the record.

[The prepared statement of Ms. Zekman follows:]

PREPARED STATEMENT OF PAMELA ZEKMAN, REPORTER, CHICAGO SUN-TIMES

Thank you for inviting me to testify before this committee. The legislation you have under consideration will fill a gaping loophole in the criminal statutes that are silent on the subject of the sale of human lives. At present, there are no federal laws that deal directly with the flourishing business of selling babies. Lawyers, doctors, and others who barter with babies know that. And as the supply of babies steadily shrinks, these baby brokers have steadily expanded their operations to increase their source of infants. They have set up complicated, but profitable interstate pipelines to match babies in one state with adoptive couples in other states, with little fear of the law catching up to them.

During a two month investigation of the baby selling racket, the Chicago Sun Times uncovered evidence of interstate operations that criss cross the country and stretch even beyond national boundaries. They are carefully constructed schemes that rely on abortion clinics and pregnancy counseling services as well as doctors and lawyers to provide a steady supply of healthy white babies for couples who can pay the highest price.

Our investigation found the price for a healthy white baby ranged from $5,000 to $15,000. We have heard indirectly of prices quoted as high as $25,000. Most courts and legitimate adoption attorneys will tell you that reasonable attorneys fees run from $500 to $1,000. Some charge far less. But in the baby selling racket, the fee is not based on reasonable costs. It is based on the laws of supply and demand—and right now the demand is very high and the supply is very low.

It is not uncommon for adoption agencies to have couples on waiting lists for babies for one to four years. The independent baby brokers suffer from the same shortages of babies caused by the easing of abortion laws and the new morality that accepts unwed motherhood. But the independent brokers have an edge on the market over the adoption agencies. They can lure natural mothers with promises of benefits that agencies cannot afford or are not permitted to give. And they have proven themselves inventive in their methods of finding babies to keep their business going.

One Chicago attorney who quoted us a going rate of $10,000 for a baby complained once to me about his unsuccessful effort to persuade the Government of India that he could help alleviate their twin problems of overpopulation and hunger by placing Indian babies with American clients of his. His idea was motivated by considerations other than the welfare of Indian babies. His selection of parents is based purely on their ability to pay, and he bragged to Sun-Times reporters about the many questionable placements he has arranged. His attitude was best described by him to an adoptive mother who was appalled by the price tag he placed on babies and accused him of peddling flesh. He retorted to her—and I quote—"That's my business. I sell flesh."

As brazen as this baby broker sounds, he will be difficult for any law enforcement agency to pin down. Federal authorities will have a difficult time building an income tax case on him because like others in this business he deals in cash only. And he carefully instructs adoptive couples on how to make payments that cannot be traced. One adoptive couple living in Florida told me how the lawyer instructed them to pay his $8,000 fee four years ago. The fee was to be paid by a check for $2,000 to cover the attorneys fees and hospital expenses for the natural mother. The remaining $6,000 was to be concealed from the court and paid in cash on the day of the adoption. The lawyer instructed them to borrow the money from a relative and not to withdraw it from their own bank account because then it could be traced. He instructed them on how to lie about the costs when they appeared in court. After the adoption was completed he told them that by the time they came back for their second child the fee would probably be up to $12,000.

Law enforcement authorities in Illinois have told me that income tax laws are the only tools available to them right now to clamp down on interstate baby selling rackets. The United States Attorneys office in northern Illinois once researched the possibility of using other laws to indict baby brokers, but came up with few alternatives. One theory was to stretch the mail fraud statutes to try to fit this particular crime, but the theory was dismissed as too convoluted to result in successful cases.

Local prosecutors are trying to deal with the problem as best they can, but face jurisdictional problems in interstate operations. I will leave it to the prosecutors you have scheduled to appear this morning to testify about those problems. I would rather spend my time with you describing some of the operations we found during our investigation. I hope you will realize that the law you are considering is badly needed to halt the practices we uncovered.

One of the slickest of the international operations is run by a Chicago lawyer who for years headed a state licensed adoption agency known as Easterhouse. When the shortage of babies crimped this operation the attorney, Seymour Kurtz, began building an international network of corporations and foundations that spreads from Chicago to the Netherlands and Mexico and is still growing with plans for expansion to New York, Italy, and Columbia. The operation, as we found it in June 1976, involved a confusing system of referrals from one Kurtz founded agency to another leaving adoptive couples with the impression that they were dealing with totally separate operations.

Couples inquiring about adoption at Easterhouse are told that there is a long wait for babies. Then they are told that Easterhouse does work closely with a foundation located in the Netherlands called the Stichting SuSu which has connections to adoption agencies around the world. Eager couples are advised to contact SuSu which, at the time of our investigation, was nothing more than post office box. Kurtz himself would fly back and forth to the Netherlands picking up inquiries the Chicago agency had directed there, and responding to them by dropping answers in the mail with postmarks from the Netherlands.

The Stichting SuSu, a Kurtz founded foundation named after his daughter, in turn refers couples to a Mexican Adoption agency called Casa Del Sur which has offices in Mexico City and Juarez. The Casa Del Sur is also a Kurtz founded agency. Inquiries to Casa del Sur are answered with confident assurances that babies are available there. They are referred back to Easterhouse in Chicago which, according to the script, is the designated U.S. agency to do home studies for Casa del Sur. Thus the couple is right back with the same agency they started with in Chicago. But that is not the last of the Kurtz corporations a couple will deal with before the adoption is complete.

To assist the couple in handling the complicated Mexican adoption Kurtz will recommend upon * * * local Chicago attorneys that the attorneys fees are $900. This is in addition to the adoption price which is usually $4,000, but is sometimes reduced for couples showing financial need. What the couples don't know is that the attorneys recommended by Kurtz only keep ten percent of the $900 legal fee or $90. The rest is kicked back to a Kurtz owned for profit corporation incorporated in Delaware called the SuKu corporation.

The adoption fee is usually paid in the form of a donation to another Kurtz founded foundation called Tzyril which has the stated purpose of aiding orphaned children. However the only donations recorded in furtherance of this purpose were to the Kurtz owned Mexican adoption agency, Casa del Sur. We also discovered that Tzyril filed tax returns as a tax exempt organization in 1973 and 1974 even though that foundation did not have tax exempt status. Kurtz said this was unimportant because the foundation did not make any money anyway. The reason it did not make any money, according to the returns, was that it paid $16,000 for Kurtz' travel expenses and $61,000 to Casa del Sur.

Little is known about the Mexican end of this operation except that medical expenses for deliveries are a fraction of the cost in the United States. Thus the potential profits are tremendous.

Immigration authorities have many questions about how Kurtz is able to get around the usual six month waiting period required under Mexican law for an adoption to become final. His become final immediately.

Income Tax agents have questions about how the money paid by couples is shuttled back and forth between corporations and just how nonprofit the nonprofit corporations are.

Illinois authorities have questions about the costs charged and the propriety of the entire set up, but the state regulators have no jurisdiction in Mexico and the Netherlands.

Why set up such a mish mash of corporations and foundations? Why send couples around the world and back home again to the agency they started out with? One state investigator who studied the scheme concluded, "He may have found the foolproof scheme. He has created such jurisdictional problems that no one can get their teeth into it. He's all over the map."

Not all baby sellers have found it necessary to run such complicated operations. But they still operate secure in the thought that the law will have difficulty following them from state to state. I was referred to a Pittsburgh attorney when I called a toll free number in the yellow pages of the phone directory belonging to an Abortion Assistance Service in Havertown, Pennsylvania. They screened me with two questions. Did I take hard drugs? What color was the father? Having passed that test they gave me the telephone number of their "legal department", a Pittsburgh lawyer who said he could arrange living quarters for me in New York through an attorney he works with. I questioned him about this, inquiring why a Chicago girl, assisted by a Pittsburgh attorney, should be directed to an apartment in New York. His only explanation was that the geography should not concern me—the geography, he said, was only important to him. The adoptive parents, he said, could come from anywhere in the country, and I would never know from where. I suggest to you that a case like that would be very difficult to track down after the adoption became final.

The brazenness of interstate baby brokers like this is best exemplified by Joseph Spencer, a New York lawyer who said he has done this kind of work for 25 years, even though New York law, like Illinois prohibits unlicensed persons from arranging for the placement of a child. I telephone Spencer as a prospective adoptive mother from Chicago. He was eager to please, but warned me that a newborn white infant would be difficult to get. He explained the interstate system work this way, "Most of the children come through other lawyers. They are like a middleman, you see. So besides the hospital costs and the living costs for the mother, there would be a finders fee, which is called a legal fee, to the other lawyer for his services. Actually it is a finders fee because he will help find us a baby, but we can't call it that."

He explained that an adoption handled in this manner would cost me about $14,000 to $15,000.

Another flourishing interstate broker was referred to me by a Chicago based abortion counseling service which advertises regularly in the major newspapers. I posed as an unwed mother in search of alternatives. A man who described himself as a counselor at this clinic told me there were two ways to handle the adoption. I could go to an agency, but I would probably find myself boarding with a hundred other girls in a dormitory and my baby would be delivered at the County Hospital by an intern. On the other hand I could go the private route. He told me about a contact the clinic had with a New York lawyer who would put me up in a lovely apartment in New York or Florida. I would have all my expenses paid, the best medical care in a private hospital, clothes, and a source for whatever other needs I had. It doesn't take long to make a decision when the alternatives are presented that way.

This counsellor then put me on the telephone to the New York law firm of Michelman and Michelman. I was assured of help, advice, and security. I was promised a lovely apartment and the best medical care. I would have expenses for clothing and food and whatever else I needed. I could come to New York whenever I wanted. I was instructed to keep in touch with Stanley Michelman on a weekly basis until I arrived.

After the first telephone conversation in the abortion clinic I was given a three page questionnaire that asked questions about my background and the father's background. I faked the answers. Then I was asked to sign a document which stated that I was agreeing to give up my baby for adoption and if I changed my mind I would have to pay back all expenses. It was written in the kind of legalese that would be difficult for most young girls in these circumstances to understand. It leaves one with the impression that it is a formal legal document and could be construed as part of the final adoption papers. Many young girls who gave up their babies through Michelman told us later that that was the impression they had. Actually the document is worthless legally.

The abortion clinic finished its duties for the New York Attorney by taking a photograph of me to be sent to New York with all the other information. The photographs are shown to prospective adoptive parents so they can get an idea of what the baby might look like. It is a degrading experience.

For the next few months I had weekly contact with Stanley Michelman, calling him collect at his instructions to report on my condition and my plans for coming to New York. He said he had four apartments where I might live, but one in particular was a luxury place where I would have a room and telephone of my own. I would share the apartment with another girl from North Carolina who was there to have a baby too.

At my request he flew to Chicago to introduce me to two girls who had been to New York and had babies for him to place for adoption. We chatted about what I could expect in New York. The girls were in their teens, bright-eyed and very eager to give a good sales pitch for Michelman. They loved living in New York. They loved having an apartment and telephone of their own. They loved the whole experience so much I practically expected them to say they would do it all again for Mr. Michelman.

After the Sun-Times ran its series on the baby selling racket one of the two girls that chatted with me in that hotel room telephoned to tell an entirely different story. During several interviews with her, and her mother, I was told how she and other girls were argued out of changing their minds about giving up their babies and told they would have to pay thousands of dollars to Michelman to reimburse him for his expenses. She and her mother complained about poor medical care—they said she was sent home with packing still inside her, a condition that they did not discover for days, and which caused her tremendous pain. She said that Michelman asked her to refer other girls to him and promised her trips to New York if she did.

Adoptive couples visiting Michelman in search of a baby are quoted prices from $4,000 to $7,000 for his services. However Michelman claimed he only charged $2500 plus medical expenses when asked about his fee by reporters.

The kinds of practices I have described to you this morning will continue unless some kind of legislation is passed that gives prosecutors tools to work with. The need to stop it cannot be overemphasized. All three parties involved—the adoptive parents, the natural mother, and the baby—can be hurt so long as the brokers deciding their fates are motivated by the prices they can charge.

Couples using the black market anguish through years of fears that somehow the baby they have adopted could be taken away because they have participated in something illegal. They have probably committed perjury in court and many fear the natural mother could use that to get her baby back.

The natural mothers are hurt by operators like this because they are not given the advantage of hearing unbiased, sensitive, educated advice on the alternatives they have. They are confused and upset and frequently young and naive. They have many options from getting an abortion to keeping the baby. But if their counsellor is a baby broker, the only advice they will probably get will be to give the baby up for adoption, and give it up through them. The experience can do years of damage to these girls, and we interviewed many who suffered feelings of tremendous confusion and guilt after they gave up their babies. Many were in desperate need of counselling after giving up their babies, but such services are not part of the baby business.

And then there are the babies. We discovered that in most states no investigation is done of the home where they will spend their lives until after the baby brokers have already made the match and placed them in the home. At that point judges told me they are reluctant to remove the baby unless evidence of an extreme nature is found to deny an adoption petition.

Baby brokers have only one standard for selecting an adoptive couple—whether they can pay the price. That is not a standard that should be used to evaluate parenthood.

The Illinois legislature is presently considering bills that will better equip our prosecutors to clamp down on baby selling operations. I hope that the examples I have given you this morning will convince you that there is a tremendous need for legislation at the federal level.

I will be happy to answer any questions you might have.

TESTIMONY OF PAMELA ZEKMAN, INVESTIGATIVE REPORTER, CHICAGO SUN-TIMES

Ms. ZEKMAN. I would like to thank the committee for inviting me to testify on this legislation. The bill that you have under consideration will fill a vacuum in the criminal statutes that are now silent on the subject of the sale of human lives. At present, there are no Federal laws that deal directly with the flourishing business of selling babies. Lawyers, doctors, and others who barter with babies know that. And as the supply of babies steadily shrinks, these baby brokers have steadily expanded their operations to increase their source of infants. They have set up complicated but profitable interstate pipelines to match babies in one State with adoptive couples in other States, with little fear of the law catching up to them.

During a 2-month investigation of the baby-selling racket, the Chicago Sun-Times uncovered evidence of interstate operations that crisscross the country and stretch even beyond national boundaries. They are carefully constructed schemes that rely on abortion clinics and pregnancy counseling services as well as doctors and lawyers to provide a steady supply of healthy white babies for couples who can pay the highest price.

Our investigation found the price for a healthy white baby ranged from $5,000 to $15,000. We have heard indirectly of prices quoted as high as $25,000. Most courts and legitimate adoption attorneys will tell you that reasonable attorney fees run from $500 to $1,000. Some charge far less. But in the baby-selling racket, the fee is not based on reasonable costs. It is based on the laws of supply and demand—and right now the demand is very high and the supply is very low.

It is not uncommon for adoption agencies to have couples on waiting lists for babies from 1 to 4 years. The independent baby brokers suffer from the same shortages of babies caused by the easing of abortion laws and the new morality that accepts unwed motherhood. But the independent brokers have an edge on the market over the adoption agencies. They can lure natural mothers with promises of benefits that agencies cannot afford or are not permitted to give. And they have proven themselves inventive in their methods of finding babies to keep their business going.

One Chicago attorney who quoted us a going rate of $10,000 for a baby complained once to me about his unsuccessful effort to persuade the Government of India that he could help alleviate their twin problems of overpopulation and hunger by placing Indian babies with American clients of his. His idea was motivated by considerations other than the welfare of Indian babies. He selection of parents is based purely on their ability to pay, and he bragged to Sun-Times reporters about the many questionable placements he has arranged. His attitude was best described by him to an adoptive mother who was appalled by the pricetag he placed on babies and accused him of peddling flesh. He retorted to her, and I quote, "That's my business. I sell flesh."

As brazen as this baby broker sounds, he will be difficult for any law enforcement agency to pin down. Federal authorities will have

a difficult time building an income tax case on him because like others in this business, he deals in cash only. And he carefully instructs adoptive couples on how to make payments that cannot be traced. One adoptive couple living in Florida told me how the lawyer instructed them to pay his $8,000 fee 4 years ago. The fee was to be paid by a check for $2,000 to cover the attorney fees and hospital expenses for the natural mother. The remaining $6,000 was to be concealed from the court and paid in cash on the day of the adoption. The lawyer instructed them to borrow the money from a relative and not to withdraw it from their own bank account because then it could be traced. He instructed them on how to lie about the costs when they appeared in court. After the adoption was completed, he told them that by the time they came back for their second child, the fee would probably be up to $12,000.

Law enforcement authorities in Illinois have told me that income tax laws are the only tools available to them right now to clamp down on interstate baby-selling rackets. The U.S. State's attorney's office in northern Illinois once researched the possibility of using other laws to indict baby brokers. They came up with few alternatives. One theory was to stretch the mail fraud statutes to try to fit this particular crime, but the theory was dismissed as too convoluted to result in successful cases.

Local prosecutors are trying to deal with the problem as best they can, but face jurisdictional problems in interstate operations. I will leave it to the prosecutors you have scheduled to appear before you this morning to testify about those problems. I would rather spend my time with you describing some of the operations we found during our investigation. I hope through these examples you will realize that the law you are considering is badly needed to halt the practices we uncovered.

One of the slickest of the international operations is run by a Chicago lawyer who for years headed a State-licensed adoption agency known as Easterhouse. When the shortage of babies crimped this operation, the attorney, Seymour Kurtz, began building an international network of corporations and foundations that spreads from Chicago to the Netherlands and Mexico, and is still growing with plans for expansion to New York, Italy, and Colombia. The operation, as we found it in June 1976, involved a confusing system of referrals from one Kurtz-founded agency to another, leaving adoptive couples with the impression that they were dealing with totally separate operations.

Couples inquiring about adoption at Easterhouse are told that there is a long wait for babies. Then they are told of an alternative. They are told that Easterhouse works closely with a foundation located in the Netherlands called the Stichting SuSu which has connections to adoption agencies around the world. Eager couples are advised to contact SuSu which, at the time of our investigation, was nothing more than a post office box. Kurtz himself would fly back and forth to the Netherlands picking up the inquiries the Chicago agency had directed there, and responding to them by dropping answers in the mail with postmarks from the Netherlands.

The Stichting SuSu, a Kurtz-founded foundation named after his daughter, Susan, in turn refers couples to a Mexican adoption agency

called Casa del Sur which has offices in Mexico City and Juarez. The Casa del Sur is also a Kurtz-founded agency. Inquiries to Casa del Sur are answered with confident asurances that babies are available the sometimes within a month. They are referred back to Easterhouse in Chicago which, according to the script, is the designated U.S. agency to do home studies for Casa del Sur. Thus, the couple is right back with the same agency they started with in Chicago. But that is not the last of the Kurtz corporations a couple will deal with before the adoption is complete.

To assist them in handling the complicated Mexican adoption, Kurtz will recommend local Chicago attorneys. The couple is told that the attorney fees are $900. This is in addition to the adoption price which is usually $4,000, but is sometimes reduced for couples showing financial need. What the couples don't know is that the attorneys recommended by Kurtz only keep 10 percent of the $900 legal fee or $90. The rest is kicked back to a Kurtz-owned-for-profit corporation incorporated in Delaware called the SuKu Corp.

The adoption fee is usually paid in the form of a donation to another Kurtz-foundation called Tzyril, which has the stated purpose of aiding orphaned children. However, the only donations recorded in furtherance of this purpose were to the Kurtz-owned Mexican adoption agency, Casa del Sur. We also discovered that Tzyril filed tax returns as a tax-exempt organization in 1973 and 1974, even though that foundation did not have tax-exempt status. Kurtz said this was unimportant because the foundation did not make any money anyway. The reason it did not make any money, according to the returns, was that it paid $16,000 for Kurtz' travel expenses and $61,000 to Casa del Sur.

Little is known about the Mexican end of this operation except that medical expenses for deliveries are a fraction of the cost in the United States. Thus the potential profits are tremendous.

There are a lot of questions immigration authorities have about how Kurtz is able to get around the usual 6 month waiting period required under Mexican law for an adoption to become final. His become final immediately.

Income tax agents have questions about how the money paid by couples is shuttled back and forth between corporations and just how nonprofit the nonprofit corporations are.

Illinois authorities have questions about the costs charged and the propriety of the entire setup, but the State regulators have no jurisdiction in Mexico and the Netherlands. Why set up such a mish mash of corporations and foundations? Why send couples around the world and back home again to the agency they started out with? One State investigator who studied the scheme concluded, "He may have found the foolproof scheme. He has created such jurisdictional problems that no one can get their teeth into it. He's all over the map."

Not all baby sellers have found it necessary to run such complicated operations. But they still operate secure in the thought that the law will have difficulty following them from State to State. I was referred to a Pittsburgh attorney when I called a toll free number in the yellow pages of the phone directory belonging to an abortion assistance service in Havertown, Pennsylvania. They screened me with two ques-

tions. Did I take hard drugs? What color was the father? Having passed that test they gave me the telephone number of their so-called legal department, a Pittsburgh lawyer who said he could arrange living quarters for me in New York through an attorney he works with. I questioned him about this, inquiring why a Chicago girl, assisted by a Pittsburgh attorney, should be directed to an apartment in New York. His only explanation was that the geography should not concern me—the geography, he said, was only important to him. The adoptive parents, he said, could come from anywhere in the country, and I would never know from where. I suggest to you that a case like that would be difficult to track down after the adoption became final.

The brazenous of interstate baby brokers like this is best exemplified by Joseph Spencer, a New York lawyer who said he has done this kind of work for 25 years, even though New York law, like Illinois, prohibits unlicensed persons from arranging for the placement of a child. I telephoned Spencer as a prospective adoptive mother from Chicago. He was eager to please, but warned me that a newborn white infant would be difficult to get. He explained that the interstate system works this way, "Most of the children come through other lawyers. They are like a middleman, you see. So besides the hospital costs and the living costs for the mother, there would be a finders fee, which is called a legal fee, to the other lawyer for his service. Actually it is a finders fee because he will help find us a baby, but we can't call it that.

He explained that an adoption handled in this manner would cost me about $14,000 to $15,000.

Another flourishing interstate broker was referred to me by a Chicago based abortion counseling service which advertises regularly in the major newspapers. I posed as an unwed mother in search of alternatives. A man who described himself as a counselor at this clinic told me there were two ways to handle the adoption. I could go to an agency, but I would probably find myself boarding with a hundred other girls in a dormitory and my baby would be delivered at the county hospital by an intern. On the other hand, I could go the private route. He told me about a contact the clinic had with a New York lawyer who would put me up in a lovely apartment in New York or Florida. I would have all my expenses paid, the best medical care in a private hospital, clothes, and a source for whatever other needs I had. It doesn't take long to make a decision when the alternatives are presented that way.

This so-called counselor then put me on the telephone to the New York law firm of Michelman and Michelman. I was assured of help, advice, and security. I was promised a lovely apartment and the best medical care. I would have expenses for clothing and food and whatever else I needed. I could come to New York whenever I wanted. I was instructed to keep in touch with Stanley Michelman on a weekly basis until I arrived.

After the first telephone conversation in the abortion clinic I was given a three page questionnaire that asked questions about my background and the father's background. I faked the answers. Then I was asked to sign a document which stated that I was agreeing to give up my baby for adoption and if I changed my mind I would have to pay

back all expenses. It was written on the letterhead of the New York law firm of Michelman and Michelman in the kind of legalese that would be difficult for most young girls in these circumstances to understand. It leaves one with the impression that it is a formal legal document and could be construed as part of the final adoption papers. Many young girls who gave up their babies through Michelman told us later that that was the impression they had. Actually the document is worthless legally.

The abortion clinic finishes its duties for the New York attorney by taking a photograph of me to be sent to New York with all the other information. The photographs are shown to prospective adoptive parents so they can get an idea of what the baby might look like. It is a degrading experience.

For the next few months I had weekly contact with Stanley Michelman, calling him collect at his instructions to report on my condition and my plans for coming to New York. He said he had four apartments where I might live. He said one in particular was a luxury place where I would have a room and telephone of my own. I would share the apartment with another girl from North Carolina who was there to have a baby too.

At my request he flew to Chicago to introduce me to two girls who had been to New York and had babies for him to place for adoption. We chatted about what I could expect in New York. The girls were in their teens, bright-eyed and very eager to give a good sales pitch for Michelman. They loved living in New York. They loved having an apartment and telephone of their own. They loved the whole experience so much I practically expected them to say they would do it all again for Mr. Michelman.

After the Sun-Times ran its series on the baby selling racket one of the two girls that chatted with me in that hotel room telephoned to tell an entirely different story. During several interviews with her and her mother, I was told how she and other girls were pressured not to change their minds about giving up their babies and told they would have to pay thousands of dollars to Michelman to reimburse him for his expense. She and her mother complained about poor medical care—they said she was sent home with packing still inside her, a condition that they did not discover for days, and which caused her tremendous pain. She said that Michelman asked her to refer other girls to him and promised her trips to New York if she did.

Adoptive couples visiting Michelman in search of a baby are quoted prices from $4,000 to $7,000 for his services. However Michelman claimed he only charged $2,500 plus medical expenses when asked about his fee by reporters.

The kinds of practices I have described to you this morning will continue unless some kind of legislation is passed that gives prosecutors tools to work with. The need to stop it cannot be overemphasized. All three parties involved—the adoptive parents, the natural mother, and baby—can be hurt so long as the brokers deciding their fates are motivated by the prices they can charge. One study showed that 16 of the 19 couples who completed nonagency adoptions had never been the subject of home studies by social workers. Even worse, 7 of the 19 were suffering from a terminal illness at the time of the adoption.

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Couples using the black market anguish through years of fears that somehow the baby they have adopted could be taken away because they have participated in something illegal. They have probably committed perjury in court and many fear the natural mother could use that to get her baby back. The natural mothers are hurt by operators like this because they are not given the advantage of hearing unbiased, sensitive, educated advice on the alternatives they have. They are confused and upset and frequently young and naive. They have many options from getting an abortion to keeping the baby. But if their counselor is a baby broker, the only advice they will probably get will be to give the baby up for adoption, and give it up through them. The experience can do years of damage to these girls, and we interviewed many who suffered feelings of tremendous confusion and guilt after they gave up their babies. Many were in desperate need of counseling after giving up their babies, but such services are not part of the baby business.

And then there are the babies. We discovered that in most States no investigation is done of the home where they will spend their lives until after the baby brokers have already made the match and placed them there. At that point judges told me they are reluctant to remove the baby unless evidence of an extreme nature is found to deny an adoption petition.

Baby brokers have only one standard for selecting an adoptive couple—whether they can pay the price. That is not a standard that should be used to evaluate parenthood.

The Illinois Legislature is presently considering bills that will better equip our prosecutors to clamp down on baby selling operations. I hope that the examples I have given you this morning will convince you that there is a tremendous need for legislation at the Federal level.

I will be happy to answer any questions you might have.

Mr. HALL. Thank you Ms. Zekman, we are going to hold questions until we have finished with all of the testimony.

Mr. Hyde indicated that he had a film that might be presented at this time, so I'll ask him if he would tell us something about this film.

Mr. HYDE. Thank you, Mr. Chairman, the National Broadcasting Co., through the good offices of the research coordinator, Joe J. McDonald, has made available to us a print of the section they did on adoption records from the WNBC evening news which was shown a few weeks ago in New York City.

So, I want to express my appreciation for NBC's cooperation and I would ask that we run this film now.

Mr. HALL. How long do you think this will be?

Mr. HYDE. I am told an estimated 15 minutes. Let us hope that estimate is accurate.

Mr. HALL. Can we kill the big lights, please?

[Recess for showing of film.]

Mr. HALL. When we finish the testimony of all of the witnesses I'd ask that you would sit at the long table, so that we can direct our questions to you.

[Off the record.]

Mr. HALL. Thank you. Our next witness is William Acosta, who will testify on behalf of Commissioner Phillip L. Toia, New York Department of Social Services. Mr. Acosta is the Deputy Commissioner, Division of Services, New York Department of Social Services. Do you have a prepared statement?

Mr. ACOSTA. Yes; Mr. Chairman, I believe it has been distributed to the members of the subcommittee.

Mr. HALL. Your statement, without objection, will be made a part of the record.

[The prepared statement of Mr. Acosta follows:]

PREPARED STATEMENT OF WILLIAM ACOSTA, DEPUTY COMMISSIONER, DIVISION OF SERVICES, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES

H.R. 2826 has the endorsement of the New York State Department of Social Services for we believe it provides the authority to curtail the abuses now taking place in private interstate adoptions. In our opinion, interstate traffic in black market placements is a flourishing activity: without effective Federal legislation and uniform state laws and practice among the states it is inevitable that abusive and exploitative practices will continue. Our evidence on the scope and volume of adoption "black market" traffic in New York State is not as comprehensive as we would like, for reasons that will be made clearer later in this testimony. Basically, hard evidence has proved to be difficult to obtain.

It is our view that the conditions conducive to "black market" activity have been present for many years but have become more evident to us since 1971 when New York State amended its abortion law. Since then, there has been a sharp decline in the number of infants available for adoption through the auspices of authorized agencies. Other factors which have contributed to the decrease in available adoptive children have been changing more which do not discourage unmarried women from raising children and the availability of reliable and effective contraceptive devices. Many persons seeking to adopt infants through agencies are disappointed. The prospect of a lengthy delay in the fulfillment of a plan that has deep personal meaning makes such persons susceptible to exploitation. Also, in some instances, women who attempt to persuade them to have the child rather than an abortion and rely upon an intermediary to pay for medical and hospital care and to cover all additional expenses. Many young women become implicated in the sale of their own offspring to families whose readiness and ability to accept full responsibility for an adopted child has not been evaluated.

Perhaps at this point a brief description of the black market and its method of operating will help to illustrate more clearly the scope and seriousness of the situation. Described is a typical black market transaction. As seen in New York, the black market frequently operates this way: A pregnant girl, often in her teens, and almost invariably unwed, is located by agents of the adoption broker through abortion clinics, private physicians, and other sources. Many of these girls are brought in from outside New York State and on occasion from outside the United States. The girl, in distress and often attempting to conceal her pregnancy from parents and friends, is put in touch with individuals who are understanding and supportive. These individuals, the broker or his agents, offer the girl an alternative to abortion, one which will permit her to conceal her pregnancy and which allegedly guarantees placement of her child in a good home. The girl who accepts this arrangement is then brought to New York City in her last three months of pregnancy. She is provided with food, shelter, an allowance and occasionally some form of employment. Upon delivery, her medical and hospital expenses are paid, the child is surrendered to an agent of the broker and a surrender agreement is signed. The broker, having already located prospective adoptive parents, then transfers the child to those parents and completes the necessary legal paperwork.

We also have information that pressure is often placed on girls who attempt to extricate themselves from this arrangement. The girls involved (who as noted are often young) occasionally have serious reservations about the surrender of their child. An effort is made to persuade the girl that the adoption is in the child's interest and that any reversal on her part would deprive the child of a lifestyle that she could not hope to provide. If this fails, the girl is then told

that the only way she may keep her child is by reimbursing the broker for his expenses and assuming responsibility for her own food, shelter and medical expenses.

Thus, the girl is confronted with the impossible task of producing several thousand dollars on short notice. Under this type of pressure, the girl seldom is able to resist and acquiesces in the surrender.

For his services, the broker received a substantial amount of money from the adoptive parents. Precise figures are difficult to obtain but newspaper accounts often suggest amounts in excess of ten thousand dollars. This sum represents the broker's expenditures for food, shelter, transportation, medical costs, and ordinary legal fees. Predictably, this sum also includes an amount that could only be characterized as profit.

This, then, is a brief description of a typical scenario in a "black market" sale. Regrettably, despite our knowledge of this activity, our success in bringing it to an end has been negligible. For some, the New York State Department of Social Services, the New York State Department of Law, and local law enforcement agencies have been actively investigating these operations, to the extent limited manpower resources have permitted. In the process, we have developed a number of leads, all of which were followed up. Our experience has been largely the same. The individuals who are known to have surrendered their children are extremely reluctant to become involved at all, much less willing to testify in a criminal prosecution. This reluctance is hardly remarkable, considering the natural desire to conceal their pregnancy and perhaps to avoid the risk of being stigmatized as one who "sold her baby."

The general lack of success in obtaining prosecutions under the current law has led us to consideration of State legislation as the appropriate vehicle for terminating "black market" adoptions. At the outset, it must be emphasized that the approaches under consideration are strictly at the intradepartmental research and evaluation stage.

An approach receiving current study is one which would limit private placement adoptions to those involving children placed for adoptions with persons related by blood or marriage. This approach would prohibit all other forms of private placements and hence eliminate "black market" adoptions. By so limiting adoptions, authorized agencies can be expected to assume responsibility for adoptions that have heretofore been going through the black market. Consequently, we may be assured that more effective safeguards will be in place to insure the appropriateness of a placement and that the "sale" of children will be better controlled.

In closing, I wish to reiterate our belief that the approach contained in H.R. 2826 is highly desirable. Our analysis indicates that it should harmonize well with any one of a number of possible State legislative approaches. Most important, this legislation can have a dramatic impact upon the interstate aspect of the "black market" trade. Our only critical substantive comment regarding the text of the legislation is that the legislation maybe strengthened by including a provision delegating regulatory authority for defining standards for reasonable payments for legal services to the Secretary of the Department of Health, Education, and Welfare.

I thank you again for being afforded the opportunity to testify.

TESTIMONY OF WILLIAM ACOSTA, DEPUTY COMMISSIONER, DIVISION OF SERVICES, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES

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comprehensive as we would like, for reasons that will be made clearer later in this testimony. Basically, hard evidence has proved to be difficult to obtain.

It is our view that the conditions conducive to black-market activity has been present for many years but have become more evident to us since 1971 when New York State amended its abortion law. Since then, there has been a sharp decline in the number of infants available for adoption through the auspices of authorized agencies. Other factors which have contributed to the decrease in available adoptive children have been changing mores which do not discourage unmarried women from raising children and in the availability of reliable and effective contraceptive methods and devices. Many persons seeking to adopt infants through agencies are disappointed. The prospect of a lengthy delay in the fulfillment of a plan that has deep personal meaning makes such persons susceptible to exploitation. Also, in some instances women who come to New York for abortions are contacted by black-market agents who attempt to persuade them to have the child rather than an abortion and rely upon an intermediary to pay for medical and hospital care and to cover all additional expenses. Many young women become implicated in the sale of their own offspring to families whose readiness and ability to accept full responsibility for an adopted child has not been evaluated, and probably never will be.

Perhaps at this point a brief description of the black market and its method of operating will help to illustrate more clearly the scope and seriousness of the situation. Described is a typical black-market transaction. As seen in New York, the black market frequently operates this way: A pregnant girl, often in her teens, and almost invariably unwed, is located by agents of the adoption broker through abortion clinics, private physicians, and other sources. Many of these girls are brought in from outside New York State and on occasion from outside the United States. The girl, in distress and often attempting to conceal her pregnancy from parents and friends, is put in touch with individuals who are understanding and supportive. These individuals, the broker or his agents, offer the girl an alternative to abortion, one which will permit her to conceal her pregnancy and which allegedly guarantees placement of her child in a good home. The girl who accepts this arrangement is then brought to New York City in her last 3 months of pregnancy. She is provided with food, shelter, an allowance and occasionally some form of employment. Upon delivery, her medical and hospital expenses are paid, the child is surrendered to an agent of the broker and a surrender agreement is signed. The broker, having already located prospective adoptive parents, then transfers the child to those parents and completes the necessary legal paperwork.

We also have information that pressure is often placed on girls who attempt to extricate themselves from this arrangement. The girls involved (who as noted are often young) occasionally have serious reservations about the surrender of their child. An effort is made to persuade the girl that the adoption is in the child's interest and that any reversal on her part would deprive the child of a lifestyle that she could not hope to provide. If this fails, the girl is then told that the only way she may keep her child is by reimbursing the broker for his expenses and assuming responsibility for her own food, shelter, and medical expenses. Thus, the girl is confronted with the impossible task of produc-

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A general lack of success in obtaining prosecutions under the current law has led us to consideration of State legislation as the appropriate vehicle for terminating black-market adoptions. However, I must admit, and it must be emphasized, that the approaches under consideration are strictly at the intradepartmental research and evaluation stage.

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In closing, I would like to reiterate our belief that the approach contained in H.R 2826 is highly desirable. Our analysis indicates that it should harmonize well with any one of a number of possible State legislative aproaches. Most important, this legislation can have a dramatic impact upon the interstate aspect of the black-market trade. Our only critical substantive comment regarding the test of the legislation is that the legislation may be strengthened by including a provision delegating regulatory authority for defining standards for reasonable payments for legal services to the Secretary of the Department of Health, Education, and Welfare.

I would like to express my appreciation for the opportunity to make this statement before you. Thank you very much.

Mr. HALL. Thank you, sir.

Our next witness is Assistant District Attorney Joseph V. Morello, Manhattan district attorney's office. Mr. Morello.

Mr. MORELLO. Thank you very much, Mr. Chairman.
Mr. HALL. I presume you have a written statement?
Mr. MORELLO. Yes.
Mr. HALL. It will, without objection, be made a part of the record.
[The prepared statement of Mr. Morello follows:]

PREPARED STATEMENT OF JOSEPH VINCENT MORELLO, ASSISTANT DISTRICT ATTORNEY, COUNTY OF NEW YORK, N.Y.

Members of the Committee: My name is Joseph Vincent Morello and I am a sworn assistant in the office of Robert M. Morgenthau, the elected District Attorney of the County of New York, which is more generally known as Manhattan. It is a personal privilege for me to be here this morning, representing Mr. Morgenthau, and giving the views of my office on the bill pending before you.

Although Manhattan is the busiest criminal jurisdiction in the country, (we had in excess of 100,000 felony arrests there in 1976) and the limited resources of my office are strained to nearly breaking, Mr. Morgenthau has established, with the aid of a Law Enforcement Assistance Administration Grant, a special section to deal with the problems of consumer crime. I am a member of that section. As a result of this policy, I have had an opportunity to pursue investigations into areas that would otherwise go unpoliced. Such is the interstate sale and transportation of babies.

Obviously the law and the proprieties of a criminal investigation prohibit me from providing this Committee with details such as names or places or any other materials that might compromise ongoing investigations or individuals.

Within these constraints, however, the following, I believe, is relevant to your inquiry and may be helpful in your deliberations. In what follows I must pay a debt of gratitude to Theresa Heath, detective first grade, of the New York City Police Department, who is assigned to the District Attorney's Office Squad. She has been the principal investigator in these cases and her long-term experience has been invaluable.

The illegal interstate traffic in babies arises from the fact that there is a severe shortage of adoptable children. To be adoptable a child must be white and apparently healthy. This shortage has only worsened as more and more young women become sophisticated in methods of birth control, as abortion has been legalized and is becoming increasingly acceptable, and as the idea of bachelor parenthood gains ground. On the other end, there are couples who cannot have children and who desire to have a family. When that desire turns to desperation, the groundwork for the black market in babies is laid.

Under the laws of New York, the likely black marketeer of babies is going to be, and historically has been, a lawyer.

New York authorizes agency adoptions and licenses the agencies. It also permits private adoptions under circumstances apparently designed to secure to the natural mother the right to place her offspring with adoptive parents of her choice. In a legitimate adoption the new parents will have to pay some costs and New York permits them to defray the pregnancy-related expenses of the mother in a private placement.

New York criminalizes placing out a child if the person placing out is not the natural parent, relative or guardian, or a licensed agency. The State also defines as a crime the receiving or giving of payments for an illegal placing out.

Black market adoptions in New York are a lawyer's province because the imprimatur of legality is sought by structuring the transaction to look like a legitimate private placement with the lawyer appearing to be no more than the representative of the parents. Our investigations reveal that in fact this is not the case. The black marketeer reaches out regularly across state and national borders, to recruit the natural mother. By the same token, and usually we think by word of mouth, adoptive parents from various states have been known to seek out New York black market lawyers.

Once the pregnant woman has been recruited, she will either be brought from her home state to New York and give birth there, under the supervision of the baby lawyer, and attended by physicians of his choosing, or the adoptive parents will leave their home State, frequently accompanied by the lawyers, and travel to where the mother is to pick up their baby. Lawyers have been known to scurry around the country collecting pregnant women and even newborns for their clients.

Our investigations have also revealed that pregnant women have been recruited in foreign countries and brought to New York, much as women from out of State. In carrying out these activities, participants will make heavy use of interstate telephone lines. We do not believe, however, that the natural mothers are the recipients of cash payments. True they may receive support for room and board and maternity clothes, and some may get an "allowance", but the money that changes hands does not appear to find its way to the natural mothers. Nor have we uncovered instances in which natural mothers were "coerced." It seems more likely that the natural mother, in a state of stress and confusion due to the unwanted pregnancy, and, perhaps abandoned by friends and family, will be enticed and cajoled to give up her baby to a black marketeer.

Once the mother is recruited and the baby born, the lawyer will arrange for the delivery of the child to its new parents. As far as the mother is concerned, her work is done, except for the signing away of her interest in the child and her giving consent to the adoption. Our work has not, and of course it would not, reveal any serious effort to help these young women make an informed decision about the child and its destiny. Efforts of the mother to back out are going to be resisted with all the subtlety and blandishment at the lawyer's command. The ability to keep unsophisticated young women entertained and enthralled is characteristic of the successful black market lawyer.

The paperwork with the mother out of the way, and the mother on her way back home, the lawyer's interest turns to getting a judicial decree of adoption. We have no reason to believe that either the attorney or the adoptive parents will scruple at perjury. What is certain is that the courts will not be told how this couple came to get this child. Since the only parties available to the court are the lawyer and his clients, it is not likely that a dent will be made in the smooth tale they have concocted. Indeed, we believe that there has been a good deal of looking the other way by court personnel when these cases come to court. The end result of these machinations is that a 3- or 4-day-old child is placed in the hands of a couple who will become the child's adoptive parents. The only qualifications these people have is that they have found the right baby lawyer, paid his price, and had little concern about what they told the adoption court.

This committee is composed of lawyers and, as lawyers, we must all be concerned about what happens at the final stages of the black market baby sale. The whole future life of a human being, a child, is set down and determined by the black marketeer and that destiny is ratified by the judicial system. The kind of rights a child may have in an adoption situation, has not, to my knowledge ever been determined by a court. (Compare *Organization of Foster Families* v. *Dumpson*, 418 F. Supp. 277, prob juris noted, 97 S. Ct. 232 (1976).)

The plain fact is that in a private adoption situation, which has been perverted by a black market sale, the child is no more than a chattel, something to be bought and sold. Because of this horrendous evil that may be done, it is fitting that Congress exercise its jurisdiction to aid the states in maintaining the integrity of the adoption process.

From the foregoing it is clear that black market baby sales are quintessentially interstate crimes. The participants travel in commerce to effectuate the crime; they employ interstate facilities and, of course, regularly transport pregnant women and babies between the several States and across national boundaries.

The historical experience of the Manhattan District Attorney's Office, which goes back more than 20 years in investigating and prosecuting this kind of case, is uniform in this regard. However, the interstate and international character of the crime is not the only reason why Congress should enter the field. State prosecution authorities must experience difficulties when the witnesses and the evidence are spread all over the map. The process of our courts does not run beyond our borders and the mechanisms for the enforcement of subpenas in foreign states are cumbersome. The use of compulsory process for the attendance of witnesses from out-of-state is also difficult.

In our cases we have a rule that our out-of-state witnesses must be willing witnesses. Just as witnesses must travel, so must investigators. The expenses of this type of work rapidly mount. There are few prosecutors today, particularly in urban offices, who command the resources in manpower and money that this work inevitably entails. In our investigations we have been fortunate to being able to cooperate with various other district attorneys in other States. However, in the absence of Federal law, the availability of cooperation from Federal law enforcement is limited. Thus, if a woman is imported from a foreign country to

give up her baby, the State Department, Immigration and others may hesitate to commit resources because there has been no violation of Federal law.

I think it is fair to conclude that the black marketeer is counting on these limitations and difficulties to pursue his trade with impunity and profit. This free ride situation must end. A Federal presence in the area is absolutely required. Bills of the sort before the committee have been before the Congress in the past; it is now time to pass one.

My study of H.R. 117 indicates to me that there are some changes needed to strengthen the bill so that it effectively deals with the patterns of abuse our investigations have exposed. For this reason I conclude my presentation with some observations on the text:

(1) Federal jurisdiction here should be premised, I believe, not only on the eventual movement of the child or person in commerce, but should include travel in commerce with the intent to commit the crime and the use of the facilities of interstate commerce for such purpose.

(2) To entice as well as to coerce within Federal jurisdiction should be a separate crime. Our investigations show that the baby black marketeer does not coerce the mother, but he will cajole and entice her. No legitimate State interest in adoption could conceivably be served by such acts.

(3) The payment of compensation to any person in a placement situation where such payments are arranged or consummated within the Federal jurisdiction should likewise be prohibited. While I think Congress must rightly leave to the several States the power to authorize licensed agencies to receive fees for placements made under supervision, any other payments should be directly authorized by local law or forbidden.

In dealing with this area of payments, Congress must grasp the nettle of distinguishing between a legitimate legal fee and an illegal payoff. Our experience indicates that illegal payments are going to be hidden in a variety of ways and are frequently going to be paid in cash. The current bill seems to deal with this, but by putting the placing out aspect together with the payment aspect some impact is lost.

New York law would provide a better model to deal more specifically with the two ends of the transaction. There are two separate activities; the placing out whereby the child is put in a new home, and the payments—in our experience made by the new parents to the lawyer. The lawyer disperses monies to the natural mother to cover her expenses, often on his own account, before the adoptive parents for that child have been selected, by the lawyer of course.

The activity of placing out or arranging for the placing out of a child, within the federal jurisdiction, should be separately criminalized. As is the present bill, Congress should make an exception for licensed agencies and court-appointed guardians operating under judicial supervision. However, exceptions for adoptive parents and the natural mother should be limited to those instances in which the parties deal directly without the intervention of a third party. In the absence of such restrictions, the federal statute would, perhaps, include a loophole through which the black marketeer could crawl as the ostensible legal representative of the mother or the new parents.

If separate crimes of enticement/coercion and placing out are defined, the issue of compensation becomes clearer. Certainly there should be a flat prohibition on compensation in connection with an illegal act such as enticement, coercion or a forbidden placement. The section could then go on to prohibit any other payments not explicitly authorized by state law.

Thank you for your attention.

TESTIMONY OF JOSEPH VINCENT MORELLO, ASSISTANT DISTRICT ATTORNEY, MANHATTAN DISTRICT ATTORNEY'S OFFICE, NEW YORK, N.Y.

Mr. MORELLO. It is a great honor for me to be here on behalf of the Manhattan District Attorney's Office, the elected-district attorney, Robert M. Morgenthau. Manhattan is a very busy criminal jurisdiction; we have over 100,000 felony arrests a year in Manhattan. However, considering Mr. Morgenthau's policies, with the help of a law enforcement assistance grant, we have been able to establish a special

unit to deal with this sort of difficult to prosecute criminal transaction. I am a member of that special unit. We have been involved in the investigation of the black-market sale of babies.

Needless to say that the proprieties of prosecution will not allow me to go into any details concerning names, places, or dates.

In addition to the matters that are in my statement, I wanted to briefly indicate two or three things which I hope might be pertinent. The evidence you have heard here today should, I believe, convince you beyond any question that the black market in babies is an interstate and international operation.

Our investigation, and I believe that of every other prosecutorial agency, result in the following:

That the children, the mothers come from all over the United States and from outside the United States. The parents come from not only New York, in the case of our particular investigations, but come to New York from other States and places.

The participants in the crimes extensively use the instrumentalities of interstate commerce to further the criminal enterprise—telephone, airplanes, and so on and so forth. Therefore, it seems to me that this is essentially within the jurisdiction of the United States and it is a crime, the difficulty to prosecute which outside, in the State jurisdiction, is enormous. Our process does not run beyond the borders of our States. Obtaining witnesses from beyond our borders, under the Uniform Witness Act, is extraordinarily cumbersome and when you are doing grand jury investigation, you are testing and exploring witnesses, and we have had witnesses all over the country that we have tried to talk to.

The other difficulties that will immediately occur to you concerning subpena power, the breech of grand jury jurisdiction, and so on and so forth.

I think the need for the Congress to occupy the field is pretty clear. The other witnesses have made it absolutely clear that this is a horrendous enterprise. Not only are we dealing with this miserable trafficking in human flesh, we are dealing, as others have said, with young women who are frightened, who are brought to the big town, who are cajoled, and enticed to continue. We are dealing with desperate people who dearly need and want children and who are prepared to pay prices for them, not only in money, but in the crimes of perjury, obstruction of justice, and conspiracy.

I think we also have to focus on the child. The child is 3 days old, or thereabouts, when it is turned over to its adoptive parents-to-be. The courts are now beginning to wrestle with the problem of the legal rights of children under these circumstances. There is now an appeal before the Supreme Court, an appeal from the southern district, three-judge district court, called Organization of Foster Parents Against Dumpson, dealing with the rights of children in a foster placement situation.

One thing is certain, there is no advocate anywhere for this child, this 3-day-old infant who is going to be committed to the custody of two individuals. They may be fine parents. They may not be fine parents. The usual mechanisms of the law for determining these questions of fitness is the judicial system. I think this is a matter that this

committee composed—as I believe you all are—of lawyers, ought to be concerned about.

A necessary step in the black market of babies is hoodwinking the courts with adoption jurisdiction. A black-marketeer in New York is most likely to be a lawyer. This is lawyer's crimes. And we have to be particularly concerned about that as well. He is going to make sure that that natural mother never appears in the court that has jurisdiction over the adoption. If possible, the consent will be signed and there will be no personal appearance. If that is not possible, the young lady will appear in another county, make a sworn statement before another judge, and that will be submitted. The courts, themselves, exercising their jurisdiction, parens patriae are being hoodwinked and they are being defrauded. Whether it is because court personnel prefer to look the other way or cannot afford to investigate, the only parties before the court will be the black-marketeer lawyer and the adoptive parents.

And our investigations indicate that they are not going to tell where they got this baby from and there is going to be no searching inquiry into their competence.

I am going to proceed on the assumption that Congress should act here. I think, however, that in considering in marking up the bill before you, there are some other matters that you might want to think about, some other approaches. It seems to me that Congress should define as a crime enticing a young woman within the Federal jurisdiction to give up her baby as well as coercing.

The present bill refers to coercion. Our experience is there is very little coercion in the legal, criminal sense of the word coercion. There is a great deal of enticement. I think that the crime of placement within the Federal jurisdiction where the party placing the child is not an authorized agency or operating under the supervision of a court, as though in a guardian situation, should also be defined as a Federal crime with two possible exceptions.

If you permit the natural mother and the adoptive parents to engage in a private placement you must require them to deal directly. It is under the guise of being the legal representative of a party that the black-marketeer functions. The whole purpose is to make it look like a legal adoption. You must reach out and deal with that problem. You may also want to except individuals who are otherwise authorized by State law to carry on adoption activities. It seems to me with two separate crimes of enticement and coercion and placement defined, you then can deal with the problem of compensation. I don't see any State interest that would be served by permitting compensation in aid of crimes.

And so if there enticement, or coercion, or illegal placement, or compensation, it should be criminal. Beyond that it seems to me Congress should save for the States the power to authorize individuals to make and receive payments. And all other payments should be prohibited.

I want to close by recalling a statement that was made in legislative history of one of the bills now inforce in New York. The legislature noted that some hundred years before the Nation fought the Civil War and amended its Constitution to end the practice of chattel slavery. This, however, is clearly chattel slavery. These are the inno-

cent, being bought and sold by people who are desperate and frightened and they are being taken advantage of. I hope the Congress will proceed to report—the committee will proceed to report this or an amended bill favorably and that it will pass both houses.

Thank you for your attention.

Mr. HALL. Thank you, sir.

We now have as our next witness, Mr. Nicholas Iavarone. Mr. Iavarone is an Assistant State's Attorney for Cook County, Ill. We welcome you here. I believe a copy of your statement has been submitted to the members of the subcommittee, and without objection, it will be made a part of the record.

[The prepared statement of Mr. Iavarone follows:]

PREPARED STATEMENT OF NICHOLAS P. IAVARONE

For the past four years, our office has attempted to curb the selling of babies by unscrupulous lawyers and doctors who prey on the misfortunes, fears, hopes and frustrations of couples who have been unable or unwilling to adopt children from child care facilities. Unfortunately, this crime is extremely difficult to uncover since the transaction is cloaked in an almost unpenetrable veil of secrecy. However, twice in the last two years, we have been able to utilize undercover personnel to bring the selling of babies into public view.

In the first case, an undercover officer posed as the husband of a woman who had complained to our office that an attorney had offered to sell her a baby. In the taped conversation, the attorney detailed the seamy arrangement to the officer—how to "wash" money and lie to the court when asked if he paid more for the baby than the medical expenses of the natural mother.

In the second episode, a pregnant investigator went to an abortion clinic that put her in contact with an out-of-state attorney who would pay all her expenses including rent and an allowance until she had her baby. The officer was informed that she would have to take up residence in another state until the birth of her child. This transporting of the expectant mother to another jurisdiction seems now to be the means by which attorneys are circumventing Illinois law as two other joint investigations with New York and New Jersey have shown. Illinois, in effect, has become a recruiting center for expectant mothers who are then channeled to the East Coast, with the adoption being finalized in a state which does not prohibit black market adoptions.

The use of the adoption laws in foreign countries such as Mexico have also been employed to circumvent Illinois law. In this type of situation, the Illinois parents fly to that country and take possession of an American born infant which has been flown to that country. The adoption is finalized there and payment made to the attorney. The decree of adoption, given full faith and credit by treaty, is then filed with the Illinois courts.

A final method utilized to avoid Illinois law, is the use of so-called "finders," who will arrange for adoption for a fee ranging as high as $10,000 in addition to all legal, medical and transportation expenses. Again, such adoptions occur either in states which have liberal adoption laws or in foreign countries.

In summary, then, black market adoptions are seamy affairs in which the laws enacted to protect infants by attempting to screen out unfit parents are avoided. Infants then become a commodity bringing windfall profits to the lawyers and doctors engaged in the traffic. And, since the operations of such individuals are now nationwide in scope, it has become increasingly difficult for local prosecutors to put an end to the practice. From our experience, it has become quite evident that only federal legislation can effectively put an end to this indiscriminate selling of defenseless infants.

TESTIMONY OF NICHOLAS P. IAVARONE, ASSISTANT STATE'S ATTORNEY FOR COOK COUNTY, ILL.

Mr. IAVARONE. At first I would like to thank the committee for asking me to testify here today. I'm here on behalf of the State's attorney for Cook County. For 4 years, our office attempted to curb the selling

of babies by unscrupulous lawyers and doctors who prey on the misfortunes, fears, hopes and frustrations of couples who have been unable or unwilling to adopt children from child care facilities. Unfortunately, this crime is extremely difficult to uncover since the transaction is cloaked in an almost unpenetrable veil of secrecy. However, twice in the last 2 years, we have been able to utilize undercover personnel to bring the selling of babies into public view.

In the first case, an undercover officer posed as the husband of a woman who had complained to our office that an attorney had offered to sell her a baby. In the taped conversation, the attorney detailed the seamy arrangement to the officer—how to wash money and lie to the court when asked if he paid more for the baby than the medical expenses of the natural mother. This attorney specialized in selling babies to women over 35 years of age. In other words, a particularly vulnerable group looked upon him as their last hope for obtaining a child. One can imagine the emotional traumas of those who could not afford, what they believed, to be their last chance for a family.

In the second episode, a pregnant investigator went to an abortion clinic that put her in contact with an out-of-State attorney who would pay all of her expenses, including rent and an allowance until she had her baby. The officer was informed that she would have to take up resident in another State until the birth of her child. This transporting of the expectant mother to another jurisdiction now seems to be the means by which attorneys are circumventing Illinois law as two other joint investigations with New York and New Jersey have shown. Illinois, in effect, has become a recruiting center for expectant mothers who are then channeled to the east coast, with the adoption being finalized in a State which does not prohibit black-market adoptions.

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In summary, then, black-market adoptions are seamy affairs in which the laws enacted to protect infants by attempting to screen out unfit parents are avoided. Infants then become a commodity bringing windfall profits to the lawyers and doctors engaged in the traffic. And, since the operations of such individuals are now nationwide in scope, it has become increasingly difficult for local prosecutors to put and end to the practice. From our experience, it has become quite evident that only Federal legislation can effectively put an end to this indiscriminate selling of defenseless infants.

Thank you.

Mr. HALL. Thank you, sir. Our next witness will be Dr. Merwin

Crow, director of the Illinois Children's Home and Aid Society Dr. Crow.

Do you have a prepared statement?

Dr. CROW. I do and we have submitted it.

Mr. HALL. Without objection, it will be a part of the record.

[The prepared statement of Dr. Crow follows:]

PREPARED STATEMENT OF MERWIN R. CROW, ED. D., ACSW, EXECUTIVE DIRECTOR, ILLINOIS CHILDREN'S HOME AND AID SOCIETY, CHICAGO, ILL.

My name is Merwin R. Crow., Ed. D. I am Executive Director of the Illinois Children's Home and Aid Society. The Society, founded in 1883, is an independent, non-sectarian child welfare agency dedicated to providing comprehensive services to the child in need. Current programs include foster family care, residential group treatment for emotionally disturbed children, casework services to families with emotionally disturbed children living at home, adoption services and services to unmarried parents. During 1976, the Society provided services to: 444 children in long-term or pre-adoptive foster homes; 78 children in residential treatment principally at the Evanston Children's Home; 861 children in the Early Childhood Development Center, early mothering program and foster care programs for problem detection and prevention; 215 infants who were placed for adoption; and 1062 unmarried parents who benefitted from one or more of the Society's services.

Regional offices are maintained in Alton, Rockford and Champaign. Service to clients in the Metropolitan Chicago area is administered from the central office located at 1122 North Dearborn Street in Chicago and at two branch offices: in Waukegan and at 10801 South Halsted. The Society is licensed by the State of Illinois, Department of Children and Family Services, and is an accredited member of the Child Welfare League of America.

The burgeoning and tragic problem of baby selling is increasing due to a lessened supply of adoptable infants and the continuing demand of childless couples to raise a child, the social changes occurring which make fewer babies available for adoption, the availability and subsequent legality of abortion, the availability of simple contraceptives, and an increased societal acceptance of the single mother who keeps her child.

For the biological parents who wish to place their child for adoption other issues surface, the primary one being the best interests of the child which should not be based on the immediacy of the economic gain to any party.

The dividing line between paying for expenses and paying for the child can be thin. What is a reasonable fee for professional services the mother must have? What are reasonable costs for her? At what point do these exceed reasonableness and become a bribe to the mother?

Because black market placements thrive on secrecy, reliable data are not available to guide us in defining the extent to which human lives are being bartered; however, without elaborating on the details, probably five thousand children are sold. Fees on the black market range from $5,000.00 to $40,000.00 per child according to testimony before the Senate Sub-Committee on Children and Youth of which Senator Walter Mondale was Chairman (April 1975). Recent accounts by investigative reporters[1] document the extent of the problem and, along with other observers, have turned up several new approaches to sustain the baby supply for the For-Profit market.

Abortion and alternative clinics frequently urge the pregnant woman to carry her child to full term, during which period she is maintained by the baby broker and paid a "fee or wage."

Importation of pregnant women from other countries who give birth in the United States and leave behind a naturalized infant for sale.

Inter-country supply connections. Mexican orphans are made available to United States citizens who consummate the adoption in Mexico and return to the states with an adopted child.

[1] "Adoption: The Right To Be Loved" by Curtis J. Sitomer from The *Christian Science Monitor*, July 23, 24 and 25, 1974. "The Baby Brokers" a series by the Plain Dealer Investigative team and Katherine L. Hatton, from the Cleveland, Ohio, Plain Dealer, March 16, 22, 24, 1975. "How I Sold—and Almost Bought a Baby" by Lynne McTaggart from the *New York Sunday News*, April 13, 1975. "The Baby Selling Racket" *Chicago Sun Times*, June 13–27, 1976, series by Pam Zeckman.

Inter-country processing. United States couples, on obtaining a release of a United States infant, go into Mexico to process the adoption in Mexico and return to the United States with a treaty-recognized and consummated adoption.

False birth certificates. This procedure is closely related to the black market in its dimensions of deception, however, no adoption occurs. The pregnant mother enters the hospital under the name of the prospective parents, thus the newborn is birth-registered under the name of the prospective parents and the birth mother is paid for her services.

We know that five states—Connecticut, Delaware, Massachusetts, Michigan, Minnesota—now prohibits independent adoptions not only as a method of controlling the black market but as a way of guaranteeing protective services to these most vulnerable children in need of placement by offering protection to all parties in the adoption—natural parent, child and adoptive parents. Several other states are proposing similar legislation.

Thirty-nine states are now members of the Interstate Compact on the Placement of Children. The intent of this compact is to govern or control the movement of non-related child placements across state lines but it does not outlaw illegal placements or impose penalties, and its effectiveness depends on strong state laws that can be enforced.

It is clear that no single state law or the compact without enforced penalties, can control trafficking in the black market which simply moves from one state to another wherever the opportunity to profit is present.

To be effective we feel there must be a Federal statute tied to funds for adoptive placement to assure permanence for children in homes determined by appropriateness and emotional solidarity and not upon wealth or willingness to pay the going price for a child.

We have three suggested modifications to make in relation to H.R. 2876—which we think would strengthen the language and make it more effective, as well as some suggested additions to consider for increasing the impact of the bill:

Suggested modifications

A. Page 2, line 9, we suggest changing "Coercing" to "Causing." This, a broader term, does not require evidence of pressure or subversiveness in the transaction.

Reason: A natural parent may wish to sell a child and cooperate in the planning so coercion is not an issue. We do not believe children should be sold under any circumstance.

B. Page 2, line 16, insert after "individual" (*including the "in utero" child*).

Reason: Due to the proliferating practice of enticing young women into pregnancy for the purpose of profiting from the sale of the yet-to-be-born fetus often across State and country boundaries.

C. Page 3, line 14(b), insert after "value is" (*"determined by the court where the petition for adoption is filed is"*).

Reason: To not leave this determination of "reasonable fee" charging open will define the monetary parameters regardless of the geographic distance between the origins of the child and the location of the adopting family. The amounts customarily charged in the area where the adoption is consummated should be the guide.

Suggested additions for consideration

Mindful of State's rights and present State laws, a Federal statute could alleviate numerous problems in the interstate and inter-country placement of children by providing for the following and requiring such in order to receive Federal funding for permanent placement in adoptive homes:

A. A required pre-placement evaluation of the adoptive family before the child is placed or considered for placement. This investigation would supply the court with information as to the nature of the natural parent's surrender of the child, the suitability of the adoptive couple, the health of the infant and the manner of the placement including the anticipated fees.

Reason: Most states require a post-placement evaluation. After the child is placed, this is post-facto and the placement is near impossible to reverse should this be indicated.

It is important that adoptable children receive the same protection as a similar child would receive in foster care or institutional care which requires that a licensing evaluation occur before placement is approved.

B. Pregnancy and post delivery counseling by a professional social agency to allow for a reasoned placement decision related to the best interest of the child.

Reason: Hasty decisions by a pregnant teen to escape the immediate difficulty of child placement at the time of childbirth frequently lack evidence of long-range concern for the infant. Independent agents do not have available temporary foster home care to allow the mother longer than the usual seventy-two hour hospital stay to determine the best interest of the infant.

C. Continuity of care for the infant—particularly with special problems.

Reason: Black market agents (and independent placement agents, notably medical doctors and lawyers) invariably drop the case if the child is born biracial or with medical problems, leaving the mother and the child on their own after delivery.

D. Involvement of a licensed or authorized agency. Separate from the court, a licensed agency should be a required party to the placement with counseling available to all parties prior to, during, and subsequent to the birth and placement of the child.

Reason: A major push in black market placements for profit is to require the pregnant mother to release the child for adoption in order to receive a monetary reward. If she chooses to keep the child she is dropped immediately. This is not likely when a recognized, professional, licensed agency is involved.

Adoption compensation

A recent Supreme Court of Illinois decision held "that the Illinois Adoption Act provision forbidding the requesting or receiving of compensation for placing out a child is not unconstitutionally vague, uncertain or overbroad.

"Defendant, an attorney, was charged with requesting and partly receiving compensation for placing out a child for adoption in violation of the Illinois Adoption Act. The lower court found that the Act was unconstitutionally vague, uncertain and overbroad and that complaints were defective and therefore void. Direct appeal was taken.

"Speaking for a unanimous supreme court, Justice Ryan stated that the statute was not unconstitutionally vague, the court stated that the obvious purpose of the statute was to prevent profiteering in the placement of children and that the phrases 'arrange for free care' and 'for the purposes of providing care' adequately described the conduct condemned.

"The court found that the word 'child' included 'unborn offspring,' because a definition restricted to children in being would have circumvented the legislative intent by exempting from section 12–1 any 'placement arrangement in which all steps, save delivery, were completed while the child was in gestation:

"The court stated that a reasonable and prudent attorney could determine to what extent services could be provided in an adoption case from the Act and quoted Goodman v. District of Columbia, 50 A.2d 812 (D.C. Mun. Ct. App. 1947), as to what services an attorney could legally perform in an adoption: 'We think it plain that so long as the lawyer gives only legal advice; so long as he appears in court in adoption proceeding, representing either relinquishing or adopting parents; so long as he refrains from serving as an intermediary, go-between, or placing agent; so long as he leaves or refers the placement of children and the arrangements for their placement to agencies duly licensed, he is within his rights under the statute.'

"The judgement of the lower court was reversed and the case remanded for further proceedings."

To determine the destiny of a child is not a matter to take lightly or relegate to the whims of one profession or another needing clients. The emphasis needs to be on the child and his best interests. This suggests that specialists in child development and those with a capacity to relate to and understand children must be those responsible for that child's placement. It can't be left to amateurs or part-time self-styled practitioners. This is the reason recognized social agencies that specialize in working with children and the parental figures in their lives exist. The law of the State needs to be such as to protect the child and those professional, community sanctioned and state licensed guardians of his destiny and protectors of his earliest foundations through not only the securing of appropriate parents for the adoptable child but to assure longevity of availability and support to those parents.

At the outset of this country's third century it would be a tremendous step forward if appropriate and solid legislation to protect the placement and adoptive process could be guaranteed for such vulnerable children.

Thank you.

TESTIMONY OF DR. MERWIN R. CROW, DIRECTOR, ILLINOIS CHILDREN'S HOME & AID SOCIETY, CHICAGO, ILL.

Dr. CROW. Mr. Chairman, thank you for this opportunity to appear before the subcommittee. I am the executive director of the Illinois Children's Home & Aid Society, which was founded in 1883. It is an independent nonsectarian child welfare agency dedicated to providing comprehensive services to the child in need. Our current programs provide foster care residential group treatment for emotionally disturbed children, casework services to families with emotionally disturbed children, adoption services, and counseling services to unwed parents.

We have recorded for your information the volume of services rendered during 1976. We maintain regional offices throughout the State of Illinois in Alton, Rockford, and Champaign. The society is licensed by the State of Illinois and is an accredited member of the Child Welfare League of America.

Prior to assuming my position, 5 months ago, I was the assistant executive director of the Child Welfare League of America and thus would like to bring that national perspective to this testimony.

The burgeoning and tragic problem of baby selling is increasing due to a lessened supply of adoptable infants and the continuing demand of childless couples to raise a child, the social changes occurring which make fewer babies available for adoption, the availability and subsequent legality of abortion, the availability of simple contraceptives, and an increased societal acceptance of the single mother who keeps her child.

For the biological parents who wish to place their child for adoption other issues surface, the primary one being the best interests of the child which should not be based on the immediacy of the economic gain to any party.

The dividing line between paying for expenses and paying for the child can be thin. What is a reasonable fee for professional services the mother must have? What are reasonable costs for her? At what point do these exceed reasonableness and become a bribe to the mother?

Because black market placements thrive on secrecy, reliable data are not available to guide us in defining the extent to which human lives are being bartered; however, without elaborating on the details, probably 5,000 children are sold. Fees on the black market range from $5,000 to $40,000 per child according to testimony before the Senate Subcommittee on Children and Youth of which Senator Walter Mondale was chairman (April 1975). Recent accounts by investigative reports document the extent of the problem and, along with other observers, have turned up several new approaches to sustain the baby supply for the for-profit market:

Abortion and alternative clinics frequently urge the pregnant woman to carry her child to full term, during which period she is maintained by the baby broker and paid a fee or wage.

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Secondly importation of pregnant women from other countries who give birth in the United States and leave behind a naturalized infant for sale. This has been notably from West Germany in recent years.

Mexican orphans are made available to U.S. citizens who consummate the adoption in Mexico and return to the States with an adopted child.

U.S. couples, on obtaining a release of a U.S. infant, go into Mexico to process the adoption in Mexico and return to the United States with a treaty-recognized and consummated adoption.

This procedure is closely related to the black market in its dimensions of deception, however, no adoption occurs. The pregnant mother enters the hospital under the name of the prospective parents, thus the newborn is birth-registered under the name of the prospective parents and the birth-mother is paid for her services.

We know that five States—Connecticut, Delaware, Massachusetts, Michigan, Minnesota—now prohibit independent adoptions not only as a method of controlling the black market but as a way of guaranteeing protective services to these most vulnerable children in need of placement by offering protection to all parties in the adoption—natural parent, child, and adoptive parents. Several other States are proposing similar legislation.

Thirty-nine States are now members of the Interstate Compact on the Placement of Children. The intent of this compact is to govern or control the movement of nonrelated child placements across State lines but it does not outlaw illegal placements or impose penalties, and its effectiveness depends on strong State laws that can be enforced.

It is clear that no single State law or the compact, without enforced penalties, can control trafficking in the black market which simply moves from one State to another wherever the opportunity to profit is present.

To be effective we feel there must be a Federal statute tied to funds for adoptive placement to assure permanence for children in homes determines by appropriateness and emotional solidarity and not upon wealth or willingness to pay the going price for a child.

We have three suggested modifications to make in relation to H.R. 2826—which we think would strengthen the language and make it more effective, as well as some suggestive additions to consider for increasing the impact of the bill:

Suggested modifications:

A. Page 2, line 9, we suggest changing "Coercing" to "Causing." This, a broader term, does not require evidence of pressure or subversiveness in the transaction.

Reason: A natural parent may wish to sell a child and cooperate in the planning so coercion is not an issue. We do not believe children should be sold under any circumstance.

B. Page 2, line 16, insert after "individual" (including the "in utero" child).

Reason: Due to the proliferating practice of enticing young women into pregnancy for the purpose of profiting from the sale of the yet-to-be-born fetus often across State and country boundaries.

C. Page 3, line 14(b), insert after * * * value is ("determined by the court where the petition for adoption is filed is—").

Reason: To not leave this determination of reasonable fee charging open will define the monetary parameter regardless of the geographic distance between the origins of the child and the location of the adopting family. The amounts customarily charged in the area where the adoption is consumated should be the guide.

Mindful of State's rights and present State laws, a Federal statute could alleviate numerous problems in the interstate and intercounty placement of children by providing for the following and requiring such in order to receive Federal funding for permanent placement in adoptive homes:

A. A required preplacement evaluation of the adoptive family before the child is placed or considered for placement. This investigation would supply the court with information as to the nature of the natural parent's surrender of the child, the suitability of the adoptive couple, the health of the infant and the manner of the placement including the anticipated fees.

Reason: Most States require a postplacement evaluation. After the child is placed, this is postfacto and the placement is near impossible to reverse should this be indicated.

It is important that adoptable children receive the same protection as a similar child would receive in foster care or institutional care which requires that a licensing evaluation occur before placement is approved.

B. Pregnancy and post delivery counseling by a professional social agency to allow for a reasoned placement decision related to the best interest of the child.

Reason: Hasty decisions by a pregnant teen to escape the immediate difficulty of child placement at the time of childbirth frequently lack evidence of long-range concern for the infant. Independent agents do not have available temporary foster home care to allow the mother longer than the usual 72-hour hospital stay to determine the best interest of the infant.

C. Continuity of care for the infant, particularly with special problems.

Reason: Black market agents (and independent placement agents, notably medical doctors and lawyers) invariably drop the case if the child is born biracial or with medical problems, leaving the mother and child on their own after delivery.

D. Involvement of licensed or authorized agency. Separate from the court, a licensed agency should be a required party to the placement with counseling available to all parties prior to, during, and subsequent to the birth and placement of the child.

Reason: A major push in black market placements for profit is to require the pregnant mother to release the child for adoption in order to receive a monetary reward. If she chooses to keep her child, she is dropped immediately. This is not likely when a recognized, professional, licensed agency is involved.

A recent Supreme Court of Illinois decision held that: "The Illinois Adoption Act provision forbidding the requesting or receiving of compensation for placing out a child is not unconstitutionally vague, uncertain or overbroad."

Nick Iavarone alluded to this *People* v. *Schwartz* case. For the record, I would like to state that this defendant, an attorney, was

charged with taking compensation for placing out a child for adoption in violation of the Illinois Adoption Act. The lower court found that the act was unconstitutionally vague, uncertain, and overbroad, and that complaints were defective and therefore void. Direct appeal was taken.

Speaking for a unanimous supreme court, Justice Ryan stated that the statute was unconstitutionally vague the court stated that the obvious purpose of the statute was to prevent profiteering in the placement of children, and that the phrases "arrange for free care" and "for the purposes of providing care" adequately described the conduct condemned.

The court found that the word "child" included "unborn offspring," because a definition restricted to children in being would have circumvented the legislative intent by exempting from section 12–1 any "placement arrangement in which all steps, save delivery, were completed while the child was in gestation."

The court stated that a reasonable and prudent attorney could determine to what extent services could be provided in an adoption case from the act, and quoted *Goodman* v. *District of Columbia*, 50 A. 2d 812 (D.C. Mun. Ct. App. 1947), as to what services and attorney could legally perform in an adoption.

We think it plain that so long as the lawyer gives only legal advice; so long as he appears in court in adoption proceeding, representing either relinquishing or adopting parents; so long as he refrains from serving as an intermediary, go-between, or placing agent; so long as he leaves or refers the placement of children and the arrangements for their placement to agencies duly licensed, he is within his rights under the statute.

The judgment of the lower court was reversed and the case remanded for further proceedings.

In conclusion: To determine the destiny of a child is not a matter to take lightly or relegate to the whims of one profession or another needing clients. The emphasis needs to be on the child and his best interests. This suggests that specialists in child development and those with a capacity to relate to and understand children must be those responsible for that child's placement. It can't be left to amateurs or part-time self-styled practitioners. This is the reason recognized social agencies that specialize in working with children and the parental figures in their lives exist. The law of the State needs to be such as to protect the child and those professional, community sanctioned, and State-licensed guardians of his destiny and protectors of his earliest foundations through not only the securing of appropriate parents for the adoptable child, but to assure longevity of availability and support to parents.

At the outset of this country's third century, it would be a tremendous step forward if appropriate and solid Federal legislation to protect the placement and adoptive process could be guaranteed for such vulnerable children.

And we are pleased that H.R. 2826 is in that direction. Thank you.

Mr. HALL. Thank you, Dr. Crowe.

The next witness is Joseph Woodcock, Jr. Mr. Woodcock formerly served as a county prosecutor for Bergen County, N.J.

I believe you have filed a statement?

Mr. WOODCOCK. That's correct, Mr. Chairman.
Mr. HALL. Without objection, it will be made a part of the record.
[The prepared statement of Mr. Woodcock follows:]

STATEMENT OF JOSEPH C. WOODCOCK, JR.

Mr. Chairman, members of the committee, I am Joseph C. Woodcock, Jr., and until February 2, 1977 I was Prosecutor of Bergen County, New Jersey. Two years ago the Bergen County Grand Jury began, at my direction, an investigation into private adoptions. This investigation revealed the existence of a black market baby ring, composed of lawyers and doctors, that reaches into every area of the United States.

Indeed, this ring has even sent clients into Mexico, Central and South America to purchase babies and bring them back into the United States.

Few are aware of the problems faced by couples who are unable to have natural children. With legalized abortion and the wide-spread use of birth control, the number of babies available for legal adoption has become extremely limited. Waiting lists in New Jersey for legitimate adoption agencies run from five to seven years, with no guarantee that a baby will be forthcoming. Those couples anxious to adopt begin to look for other ways to find a child, and by various private channels learn of lawyers or doctors in other States that specialize in obtaining black market babies. These illegal adoptions can cost the parents, on the current black market, from $10,000 to $15,000 in cash.

The average person may respond to this problem by stating that no one is harmed by this service as the babies usually go into the hands of couples who really want a child and, therefore, this is a victimless crime. This is far from the truth. There are many victims in an illegal adoption—the adoptive couple, the natural parents, and the baby involved.

With respect to the adoptive couple, there are many problems along with the obvious exploitation of these people.

Not everyone who states they want a baby is actually prepared to adopt a baby. In one case brought to the attention of the Grand Jury, a couple who obtained a baby decided after one week that they were not prepared to handle it. They contacted the attorney and requested that he take it back and give it to someone else.

Unlike black market baby lawyers, certified adoption agencies investigate couples before considering them for adoption. Certain requirements must be met. For example, the couple must be married for a certain number of years and cannot have a criminal background. Further, if a natural mother appears unsure of her decision, she is not rushed into signing any papers. Instead, the agency can place the child in a foster home until the natural mother either prepares a home for herself and the child, or makes the final decision to sign adoption papers.

When a black market baby lawyer arranges an adoption, he hands the baby to two people he has never seen before. He has absolutely no knowledge of their background or problems.

Deserving couples are turned down merely because another couple can afford a larger amount of money. This limits babies to the highest bidding couple. In one case, a couple who was offered a baby by a lawyer for $7,000 took one week to arrange to borrow the money from relatives before contacting the lawyer. By the time they got back to him, the lawyer stated that another couple had offered $9,000 but that he would still give them the baby if they could come up with $10,000 in cash. The lawyer stated that if they wanted a baby badly enough, they could come up with the money. Needless to say, this couple did not get the baby.

Many couples have gone into serious debt in order to be able to have enough cash to pay a lawyer. As one adoptive couple put it:

> Our child is our whole life. Now we'll never be able to afford a house or a new car. We'll also probably never be able to afford a second child.

Another problem is that often the couples are lied to by lawyers with respect to the natural parents' background. Most couples are told that the natural mother was a beautiful young college student who had an affair with a wealthy married professor and wants to give her baby for adoption so that she can continue her education. This, of course, is often not the case. The natural mother is herself a victim in this type of adoption. She is usually young, insecure, and completely confused at discovering her pregnancy. The "baby lawyer" preys

upon her confusion and convinces her that it is in her own best interests to give away her baby. She is rarely given any alternatives. No one discusses the fact that she can be helped financially to enable her to keep her baby.

The lawyer tells her that the family taking her baby will be wealthy and be able to take better care of the baby than she will. They prey upon her own lack of confidence in herself. They promise her anything she wants to hear, even though they do not plan to honor that promise. We have discovered instances where the natural mother is assured that the child will be raised in a particular religious environment, a promise honored only in its breach.

Many times the lawyer will arrange to have the adoptive couple pay for the natural mother's expenses before the birth of the child. She may be granted certain luxuries, as in the case of the natural mother put up at the Plaza Hotel in New York City for six months prior to the birth of the child. This is the lawyer's method of guaranteeing that she does not change her mind. It results in the accumulation of a large financial debt and encourages the natural mother not to change her mind because she cannot afford to repay the lawyer for all these expenses.

Additionally, we found that many times doctors, who plan to give away a baby, will induce birth early instead of allowing the pregnancy to go to its full term. This appears to be based upon the fear the natural mother will change her mind about giving up her baby during the last weeks of pregnancy when she feels the stirrings of life within her.

The child also becomes a victim. The "baby lawyer", by providing no service to obtain a medical history from the natural mother for the adoptive couple, may conceal serious diseases such as epilepsy, mental illness, and diabetes.

How are these baby lawyers permitted to flourish despite state laws that prevent private individuals from arranging adoptions?

The laws of the State of New Jersey (see copy of law) state that it is illegal to place or assist in placing a child for adoption unless it is done by a certified adoption agency. The law is stated in similar language in several other states, such as Illinois and Michigan. These laws were written to protect all of the parties involved in an adoption. A mere examination of what is required in order to receive certification from the state reflects the vast differences in the services offered by a legitimate agency and the "baby lawyer". (See Requirements for Certification.)

The serious loop-hole which allow this black market activity to continue, despite state law, is the lack of Federal laws prohibiting the interstate trafficking of babies.

Another cause is the lack of the courts to require better investigations of private adoptions, as well as the failure of social agencies to better advertise their services so that natural mothers will not be directed to lawyers planning to profit from their misfortune.

As we in Bergen County learned from talking with agencies in other states, many lawyers have a network of agents set up all over the state and in surrounding states to direct pregnant women to their offices. These agents consist of Guidance Counsellors in Junior High, High Schools, and college campuses, Social Workers and Nurses at Hospitals, Abortion Clinics, Obstetricians, M.D.'s, Planned Parenthood and Right to Life Groups.

Many of these individuals do not realize that the lawyer plans to sell the baby. Other individuals will receive kick backs in the form of cash for each baby sold.

Natural mothers go to private attorneys and not to certified agencies because of the many myths presently circulating with respect to agency placements, myths many doctors believe in as well. These myths include the following:

1. An agency would force me to live in a home for unwed mothers.
2. An agency will make the baby live in a foster home for three years before placing it for adoption.
3. An agency would make me pay $1,000 for handling the adoption.
4. An agency would force me to marry the natural father.
5. An agency would force my parents to adopt the baby.

Once inside the lawyer's office, a natural mother is induced to give up her baby with promises of money she can use towards a vacation, a new wardrobe, or to further her education. She is convinced that the lawyer is representing her best interests and that she is in fact his client. The adoptive couple believes the same thing. However, the lawyer represents only his own pecuniary interests, not the interests of either so-called client.

The lawyer will then select a couple from out of state to adopt the baby. This eliminates the need for anyone in his jurisdiction to know what he is doing. He never appears in court in his own state or in the state of the adoptive couple. He never signs any documents and there is rarely any correspondence between him and anyone else involved. There is nothing to connect him to the adoption since all details are handled by telephone.

In the case of a Chicago attorney and a Detroit attorney, both indicted in New Jersey for illegal adoptions, it came as a total surprise to the other attorneys and judges in their own towns who were not even aware that their attorneys had ever handled an adoption, much less had a flourishing business going.

To give an indication of what an extensive business this is, certain attorneys have portfolios of photographs showing pictures of alleged pregnant women, and even some putative fathers. Babies will be listed according to market price which range from lower prices for babies of multi-racial parentage, to very high prices for what is known as the "educated baby". This is the baby whose mother is allegedly a college student or college graduate.

Lawyers then take their price in the form of a check for a small amount and the larger amount paid in cash in small bills. There are no legal services rendered save and except the preparation and execution of the waiver by the natural mother.

Many lawyers have nurses on their staff who hand the baby to the couple right in their office. In a few cases, it appears that the lawyers took babies from the natural mothers before they actually found a couple to adopt it.

After the lawyer is paid his price, the couple is admonished not to reveal to the court in their home state exactly how much was paid.

In New Jersey, these admonitions were reinforced by a New Jersey attorney handling an adoption instructing the adoptive couple to lie to the Division of Youth and Family Services caseworker investigating the adoption.

By the time a couple applies to legally adopt the baby in their own state, they've usually already had the baby for at least three months. In the case of a Bergen County couple who paid $10,000 in cash to a New York doctor for their child, they waited two years before applying for the adoption in Bergen County. In this way they assure themselves that the judge will never take away a baby who has spent two years with a family, even though the placement may be illegal. Indeed, it is very difficult to even detect an illegal adoption after it takes place.

The New Jersey judge is dependent upon a social agency (Division of Youth and Family Services) to investigate the adoption. These caseworkers are not trained investigators and often do not request verification of any information including marriage license, birth certificate or fees paid. Information taken from the adoptive couple is not taken in the form of a sworn statement and, generally, important questions are not asked. Many couples indicated that it was not necessary for them to lie to the judge or the social worker about the fees paid because they were never asked the question.

In the case of the interstate adoption, it is rare that anyone in New Jersey actually speaks to the natural mother. Judges depend upon a consent waiver which is allegedly signed by the natural mother in which she consents to the adoption and waives her right to notification of the hearing.

In two cases which my staff investigated involving babies coming out of California it was discovered that the consent forms were notarized by people who never actually saw the person signing the document. It is still not known exactly where these babies came from, although it is suspected that one natural mother was sent to California from Mexico and given $100 for her baby. This baby was sold to the New Jersey couple for $8,000.

We suggest, at the very least, the natural mother should be required to be brought to court in her home state and questioned with respect to the adoption.

It is interesting to note that several obstetricians in New Jersey who were arranging adoptions between patients felt that they were justified because they they did not actually take money for this service. They stated that a gynocologist/obstetrician has patients that come for an abortion who are too late, and also patients that they treat for infertility problems. They believe that they are fully competent to make arrangements for one patient, who does not want the baby, to give that baby to another couple who desperately wants it.

But given closer scrutiny, the answer is not that simple. In one case we had babies going from a natural mother who lived in one town to an adoptive couple who lived in the same town. The doctors involved stated that "they sat down

in their office with the nurses and kicked around who will get the babies". Other doctors have stated, "I decide who deserves it most". On what do they base that decision? In most cases they have only treated the wife of the adoptive couple and then only for approximately ten minutes once a month. This is certainly an inadequate basis on which to permit an adoption.

Often the doctor will encourage the natural mother to give away her baby because he believes that the couple wants a baby now, and this natural mother can bear more children later on.

In one case, a doctor, who made these arrangements on a regular basis, would be contacted by couples who were looking for a baby to adopt, to arrange for infertility shots, knowing that the treatment could not help them. They went to the doctor solely because they had heard that eventually the doctor could get them a baby.

The potential areas for abuse are so great that we need stronger Federal laws to close the loopholes that state laws cannot reach. Even well intentioned individuals do a disservice to all concerned by arranging an improper adoption.

Our most recent cases are international in scope because American lawyers can arrange for a couple to go to a foreign country and bring a baby back to the United States. One man in particular, who is not a lawyer, is able to bring babies into the United States and advertises that he will bring the child to you.

All of these horrors point to the reasons why the Federal law needs to be strengthened to help those in State Government stop this plague. State agencies simply are incapable of conducting necessary investigations in other states, or even other countries. Only the Federal Government has the resources which will permit the exposure and destruction of these multi-state black market baby rings. I, therefore, endorse the proposed legislation before this committee, and especially urge that strict financial limits be placed on those legal fees permitted persons involved in preparing documents necessary for adoption.

TESTIMONY OF JOSEPH C. WOODCOCK, JR., FORMER COUNTY PROSECUTOR, BERGEN COUNTY, N.J.

Mr. Woodcock. Let me say that I am pleased to be here this morning to testify as to the need for Federal legislation in the area of adoption.

Some 2 years ago the Bergen County grand jury, at my direction, instituted an investigation into private adoptions. This investigation revealed the existence of a black-market baby ring, composed of lawyers and doctors, that reaches into every area of the United States.

Indeed, this ring has even clients into Mexico, Central and South America, to purchase babies and bring them back into the United States.

I might say parenthetically that a great problem that we have in New Jersey is that someone in New Jersey will go to Illinois, Michigan, or California, receive a child from a lawyer in one of those States, bring that child back to New Jersey, go to an attorney, usually a gentleman who is known to the lawyers handing over the child in the other States, commenced the adopting procedures in New Jersey.

And unless the court—all these matters are sealed—unless the courts send that matter down to the prosecutor's office, we would never know the child is taken from Michigan, Illinois, or California and brought to New Jersey for the purposes of adoption. Also, the very fact that even if we do find that out, and we want to got back to Illinois, or Michigan, or California to discover the circumstances of the placement of that child, and to determine in fact whether it was a legitimate placement or one of the cases involving black-marketing children, the difficulty in doing that is great.

One, you have the adoptive parents who are reluctant to indicate to us how they came to get the child from Illinois, or Michigan, or California.

Further, even if we get that information, trying to track down the adoptive parents in the foreign jurisdiction is most difficult; and even if we contact cooperating agencies in those States, they have problems of their own which do not permit us to get the kinds of information that we want.

And then we get to the problem of having to send our investigators out to those jurisdictions to gather that information. The cost of our doing that is absolutely prohibitive. We have other priorities of our own in our own jurisdiction that we have to take care of. So, I think that the law that is being proposed here today is in fact very necessary.

And let me say that while we were engaged in this investigation, I did have reason to contact the U.S. attorney, Jonathan Goldstein, in New Jersey, and at that time I asked him whether or not the Federal Government could in fact intervene, because it would be appropriate for them to be able to handle the multistate facets of the problem. He indicated to me that there was nothing on the books that would permit him to become involved.

I would also state that the need for this kind of legislation is that, while we think in terms of a ring of doctors and lawyers involved in black-market babies, we can only develop the extent of that ring and identify the members of that ring if we have the Federal task force out there doing the job. Because there is no way of my determining whether or not a child born in New Jersey, for instance, has been given to a couple from Missouri who has taken that baby back to Missouri for the purposes of adoption. There is no way that I am ever going to learn that unless some district attorney or prosecutor in Missouri contacts my office and asks for my help. I do think it is appropriate that the Federal authorities do become involved in this most serious problem.

I won't continue with the balance of my prepared statement. I think that the other parties that have testified here today have given you very clear indications of the problems. I think that the legal profession has a lot to explain in this regard because I think that the testimony before the grand jury in Bergen County, and that that is referred to here today, indicate that we have been lax in policing our own professions.

It is hard for me to believe that these things can exist. In fact, we were more vigilant in handling our ethics. Thank you.

Mr. HALL. Thank you, Mr. Woodcock.

Now, I have Ms. Fink, who will testify on behalf of American Citizens Concerned for Life.

Have you prepared a statement?

Ms. FINK. Yes.

Mr. HALL. Without objection, it will be a part of the record. Will you proceed.

[The prepared statement of Ms. Fink follows:]

PREPARED STATEMENT OF JUDY FINK, VICE PRESIDENT OF AMERICAN CITIZENS CONCERNED FOR LIFE, INC.

I am Judy Fink, Vice President of American Citizens Concerned for Life, Inc., a national organization which has as its objectives the promotion of respect for human life and the development of a society which has as its foundation the respect of man for his fellow man.

Our present programs and activities primarily focus on the needs of pregnant women, children—both born and unborn—and families. We work with many individuals and groups in this country, including those active in the pro-life movement and those involved in promoting the welfare of children.

Our advisory board includes members of Congress, Roman Catholic, Jewish and Protestant religious leaders, editors and authors, medical practitioners and researchers, journalists, theologians, law professors and social workers.

We are pleased that Congressman Albert Quie, who serves on our advisory board, is co-sponsor of the bill we are discussing today.

Mr. Chairman and members of this Subcommittee, it is an honor to be here on behalf of the American Citizens Concerned for Life to testify on legislation which we believe is vital if human integrity, especially the well being of our nation's children, is to be maintained in this country. It is the children of this country who will one day be our leaders, our workers and future parents. Child development is therefore of extreme importance to the health of this nation. The psychological effects on children who have come from broken homes or children who have been shuffled from place to place are very serious effects which we believe must be dealt with. We are not dealing with the sale of goods and services but with the sale of human life. And it is not only the child who suffers physically, emotionally and financially but the natural and future parents of that child as well.

Mr. Chairman, like yourself, we have become more and more aware through our own activities and the numerous articles that have appeared in major newspapers across this country of the severity of black market baby selling.

We are pleased to support the legislation before you today, H.R. 117, for we believe it to be a step in the right direction in curtailing the widespread abuse of children in this country. Such legislation has long been overdue and we commend Congressman Hyde for the introduction of this legislation.

H.R. 117 is effective because it gives greater authority to the federal government in dealing with interstate and foreign baby selling operations. The black market baby business has become so extensive that it is impossible for state authorities to deal with violations effectively and speedily. The use and/or sale of a human being for profit without any respect for that person's integrity and well-being is in our minds a most serious offense. Those who engage in such practices should be severely reprimanded. We are therefore pleased to see that this legislation calls for a very heavy fine and/or imprisonment for anyone who is convicted in the selling of a child in interstate and foreign commerce.

We also support the provision of the bill, (b) Subsection (a) (1) which does not prohibit any person's—

> Soliciting, providing, or receiving monetary value for seeking to place, placing or arranging to place any child for permanent care or adoption, if such a person is a parent or legal guardian, a person seeking to adopt such a child or provide personally such child with permanent care, a person authorized under license to place children for permanent care or adoption in accordance with state laws,

if the monetary value received is not "in excess of any amount which is fair and reasonable and customarily received for the same or similar services at the time and place such services are provided." We also support the provisions covering the legal services required in the placing and arranging to place any child for permanent care or adoption if the rates are reasonable and fair.

Mr. Chairman, I would like to thank you again for the opportunity to have appeared before this Subcommittee and once again extend our appreciation for the introduction of this legislation. Thank you.

TESTIMONY OF JUDITH FINK, VICE PRESIDENT OF AMERICAN CITIZENS CONCERNED FOR LIFE, INC.

Ms. FINK. In the interest of time. I would like to cut my remarks short, so that you will have a chance to ask questions.

I am Judy Fink, vice president of American Citizens Concerned for Life, a national organization which has as its objectives the promotion of respect for human life and the development of a society which has as its foundation the respect of human kind for his or her fellows.

Our present programs and activities primarily focus on the needs

of pregnant women, children—both born and unborn—and families. We work with many individuals and groups in this country, including those active in the prolife movement and those involved in promoting the welfare of children.

Our advisory board includes Members of Congress; Roman Catholic, Jewish, and Protestant religious leaders; editors and authors; medical practitioners and researchers; journalists; theologians; law professors; and social workers.

We are pleased that Congressman Albert Quie, who serves on our advisory board, is cosponsor of the bill we are discussing today.

Mr. Chairman and members of this subcommittee, it is an honor to be here on behalf of the American Citizens Concerned for Life to testify on legislation which we believe is vital if human integrity, especially the well-being of our Nation's children, is to be maintained in this country. It is the children of this country who will one day be our leaders, our workers, and future parents. Child development is therefore of extreme importance to the health of this Nation. The psychological effects on children who have come from broken homes or children who have been shuffled from place to place are very serious effects which we believe must be dealt with. We are not dealing with the sale of goods and services but the sale of human life. When babies are treated as a commodity to be sold to the highest bidder, it is not only the child who suffers physically, emotionally, and financially, but the natural and future parents of that child as well, and, indeed, all of our American people.

Mr. Chairman, like yourself, we have become more and more aware through our own activities and the numerous articles that have appeared in major newspapers across this country, of the severity of black-market baby selling.

We are pleased to support the legislation before you today, H.R. 117, for we believe it to be a step in the right direction in curtailing the widespread abuse of children in this country. Such legislation has long been overdue and, we commend Congressman Hyde for the introduction of this legislation. But other kinds of legislation are needed to help the central person in this crisis—the pregnant mother.

This is legislation that could do a great deal to stop the problem where it starts. We must provide the best kind of legal services, medical care help, and supportive services for the pregnant woman whose baby may become a commodity and who needs have become that which abortion-clinic attorneys, all these others that we have heard and discussed today, have taken advantage of. She is in the most defenseless possible position. I must call on you to realize that we have talked about the baby today and what is happening to it, and it is very important, but, please, let us remember that the reason that we are holding this hearing is because this woman needs help, and she has inadequate sources of it.

Legislation has been introduced in the last session of Congress by Representative Albert Quie and Senators Edward Kennedy and Birch Bayh that we hope will be helpful. We hope that more of this alternatives to abortion legislation will be introduced this year and our organization intends to work toward that goal.

I would also like to point out, too, that while other people who have testified have spoken of including the in utero child, or the unborn

child in H.R. 117, that it is somewhat of a paradox, since this in utero child is now a nonperson as a result of the U.S. Supreme Court's *Roe* v. *Wade* decision. We need legislation in the form of a constitutional amendment, to see that this unborn child is no longer a nonperson. Because isn't it somewhat of a paradox also that this little person—this little nonperson—can cause us to sit here and worry about how people are trying to sell him and make him a nonperson? Thank you.

Mr. HALL. Thank you very much.

We have one bit of evidence that we would like to make a part of the record. A letter has been submitted to each of you gentlemen, and a package, from the Children's Home Society of Minnesota, addressed to Mr. Henry Hyde, dated March 10, 1977. Without objection that will be made part of the record.[1]

Also, I have a statement of Congressman Lou Frey and, a telegram from the Illinois Department of Children and Family Services, indicating their support of H.R. 117. Without objection this telegram and the statement of Congressman Frey will be made a part of the record.[2]

[The prepared statement of Hon. Lou Frey follows:]

STATEMENT OF HON. LOU FREY, JR.

Mr. Chairman. Black market baby-selling in interstate and international commerce is a dirty business. It preys on those couples who, for whatever reasons, are unable to adopt a child through legal adoption agencies. It preys on the pregnant single woman not knowing where to turn.

In allowing this market to continue, we are not only jeopardizing the baby involved, but also the natural mother or parents and the future parents. They are victims both emotionally and financially of an operation that state authorities are at a loss about how to deal with without federal legislation.

Unscrupulous doctors and lawyers looking for fast and big money have exploited the single woman and the married couple long enough. H.R. 2826, which would prohibit the sale of children in interstate and foreign commerce, is sorely needed and I want to commend my colleague, Mr. Hyde, for his efforts to enact the proper federal controls. We are not witnessing a new problem: Senator Kefauver sought such legislation in 1956 after a nationwide study of the baby-selling business. To the misfortune of many, the House to date has failed to concur with the Senate in their approach of legislation prohibiting the sale of children.

The Chicago Sun-Times explosive series revealed the ease with which these transactions are handled—a quick phone call to that doctor or lawyer who is more than eager to help the pregnant woman seeking adoptive parents or the couple who has been unsuccessful through adoption agencies; the blatant acknowledgement by these doctors and lawyers that they are breaking the law—only verifies the urgent need for federal controls. H.R. 2826 would give the federal prosecutors the power they need to put an end to these despicable baby-selling rings.

I urge the Subcommittee give this bill their quick approval. We are dealing with human lives—not to be bought and sold for a fast buck.

We are going to ask the parties who have testified to take a seat at this long table in the order which I have indicated here. I will just call out the last name. Fink, Woodcock, Acosta, Morello, Iavarone, Zekman, and Crow. We are trying to group you by State.

[Five-minute recess taken.]

Mr. HALL. The subcommittee will come to order.

Due to the time limitation that we have, we are going to continue but under the 5-minute rule. Now some of the questions may be asking

[1] See p. 104 *infra*.
[2] See p. 105 *infra*.

to you, individually or collectively. Unless the person who is asking the question directs it to some particular person, any of you may feel free to answer.

Mr. Hyde stated that he will refrain from asking any questions, so at this time, I would recognize Congressman Wiggins of California.

Mr. WIGGINS. Thank you, Mr. Chairman, I have more questions than time would allow. But let me start with some general observations. And then I will try to ask questions of the panel.

I start from the premise that there is nothing socially wrong by improperly conducting an investigation of adoption. It is nothing that the law discourages as a matter of wrong policy. I also start from the premise that given the choice between life and death you should opt for life. That is, a mother should be encouraged to have the child rather than to abort the child before a full-term delivery—a full-term pregnancy.

My first question is: If we adopt the legislation pending before us, would we not be encouraging abortions? And I direct that question to the lady on the end.

Ms. FINK. There are many things in our society right now that encourage abortions. One of the things that encourages abortions is a recent Supreme Court decision. *General Electric* v. *Gilbert*, that says women could not have pregnancy disability payments.

Mr. WIGGINS. Do you work for General Electric?

Ms. FINK. Right. We feel that decisions like that encourage abortions, not positive bills like H.R. 117. I think what we are trying to do with H.R. 117 is create a climate in which babies are seen as human beings and valuable people, and are not just commodities to be sold. To me, I think that's what's important.

Mr. WIGGINS. I think you've answered the question.

The answer is, that in your opinion, the enactment of this legislation would not encourage the pregnant woman to have an abortion, as distinguished from placing the child for adoption.

Ms. FINK. No; I don't think it would.

Mr. WIGGINS. Now, throughout I detected a bias against privately, so-called independent adoption, versus agency, licensee placement. Particularly, the gentleman from Illinois, I believe, and perhaps from New Jersey, argued that there was something either inherently wrong or the potential evil is so great in the case of private adoption, that we ought to discourage those if possible. Does anyone want to comment with respect to that? Particularly the gentleman, whoever sat at—I think it was the gentleman on the end. You represent a State——

Dr. CROW. That is correct.

Mr. WIGGINS. Does your agency charge?

Dr. CROW. We do not. We incur expenses in the neighborhood of $3,000 considering all costs and it is entirely up to the adoptive couple as to whether or not they want to make a donation to the agency. It is not required. There is no coercion of any kind. It is entirely voluntary.

Mr. WIGGINS. Go ahead.

Dr. CROW. Our concern is that, as you implied, there is a chance for profiteering, if you please, or at least the oversight of determining the propriety of the family into which the child will be placed. Insofar as we feel that we have some expertise in this, we feel it's important that that a judgment be made. Further, we find that there is a drop-

ping of the family at the point the adoption is consummated. Conversely, the agency stands ready to offer counseling, guidance, advice, or whatever, along and during the life of the child.

Mr. WIGGINS. Do you recommend that we move toward the abolition of private placement?

Dr. CROW. I do. As five States already have done so, without impeding the adoptive process, without creating a backlog of children, and providing for those children's best interests in the family of choice.

Mr. WIGGINS. Forty-five States have expressed their public policy as permitting, not encouraging but at least tolerating, private placement.

Dr. CROW. Perhaps it's a kind of cynical issue.

Mr. WIGGINS. I personally wonder about the Federal Government preempting the State policy of 45 States. I don't know that I have a favorite between private placement and agency placement, but I think that's a procedure which States can permit within their police power, so that as long as it's properly supervised. Now, is it a wrong—social wrong—in a private placement case, assuming good faith all throughout my question and assuming the reasonableness of the charges, I want you to assume that, all of you—is there something socially wrong and that ought to be discouraged with respect to the adopting parents paying for prenatal expenses for the natural mother?

Mr. WOODCOCK. There is nothing wrong with that.

Mr. WIGGINS. How about delivery expenses? Is there something socially wrong for the payment by the adopting parents of reasonable and necessary postnatal expenses?

Mr. MORELLO. I don't think so, Mr. Congressman.

Mr. WIGGINS. I haven't defined what these prenatal expenses are, but let me throw in the easy ones, medical. And, now we go to more difficult ones, support and maintenance. Should we bar as a matter of policy all payments for the support and maintenance of the mother for the last 60 days of the pregnancy?

Mr. IAVARONE. Illinois has already discussed this policy and forbids any payment, except for medical expenses.

Mr. WIGGINS. Is that forbidden in other States? How about in your State?

Mr. WOODCOCK. In our State, you just can't give anything of value to bring about the adoption and particularly in private placements.

Mr. WIGGINS. It would be prohibited? Medical expenses prohibited too?

Mr. WOODCOCK. I would think it would be, unless there was truly a private placement.

Mr. WIGGINS. We are talking about good faith. Some lawyer or doctor can abuse our statute, but I don't want to sweep all the good guys up into some——

Mr. WOODCOCK. We are talking about reasonable expenses. And I would think reasonable expenses would be all right.

Mr. WIGGINS. Would that include support and maintenance, transportation, and perhaps housing, an apartment as reasonable and necessary?

Mr. HYDE. Mr. Chairman, can I break my own rule? I think the touchstone is—is it profit or is it a voucher expense? If it's for room,

board, things like that, it would seem to me to be under given circumstances reasonable. But, if it was for profit, that's the evil. That is the vice I think we are trying to get at.

Mr. WIGGINS. I agree. That is the bottom line. The excessive charges, how do you get to that? A statute which says only reasonable charges would be incurred and authorized doesn't solve the problem. But, as you say, it merely encourages perjury on occasion. I would think that it would be the duty of a judge, who must ultimately approve the adoption in every State, to make an inquiry concerning those charges under oath. Now, is that done in the State of New Jersey?

Mr. WOODCOCK. Well, let me say, the problem in the State of New Jersey, and I assume in other jurisdictions, is that the entire matter is held in camera. Nobody is there except the adoptive parents. Now the point is that these are investigated in New Jersey by the Division of Youth and Family Services. But unfortunately, the Division of Youth and Family Services is trained from the social standpoint, rather than the investigative standpoint. And when they indicate to the force that they have investigated this matter and they find that there is something more than, let's say $1,500 paid by way of medical expenses, and they say that they have verified this. I don't really believe that they understand what verification is. And what the full verification is that the adoptive parents have said to them, "We paid $1,500." Well, when they do that——

Mr. WIGGINS. What you're telling me is that there has been a collapse in your State of the investigative mechanism to bring the true facts to the attention of the courts.

Mr. WOODCOCK. Also this, and this is the added problem, where you have the attorneys that are involved in this that instruct the adoptive parents that should they announce the true amount that they paid, that that may put the adoption into jeopardy. And when you have people who have had a child placed with them for some 3 months and have grown to love that child, they will do anything when they get into court, even to committing perjury. And this is the great problem that you have.

Mr. WIGGINS. I am sure that New Jersey laws prohibit and punish criminally for perjury, and I am not so sure that we had any deterrent effect by making it also prosecutable. I have a word that I want that I can't come up with. Make it subject to prosecution—make it subject to prosecution a Federal law. Now is it going to change any if we adopt a statute that says that a U.S. attorney can also get a bite at you?

Mr. WOODCOCK. Only to this extent. Our great problem in the State of New Jersey is that, how do you really investigate that?

Mr. WIGGINS. Well, have you talked to your State legislators?

Mr. WOODCOCK. No. But the point that I am saying—how do we ever prove even the perjury? If somebody goes in and says, "I paid $1,500 and that's all I paid." When the fact is that they did in fact pay $10,000? And as long as they stay with that, we can't legitimately investigate that by going to Illinois or Michigan or to Los Angeles to check it out, because we don't have the resources to do that. I think that the Federal authorities, because of the fact that they can go across State lines easier than we can and can subpena witnesses within that jurisdiction easier than we can and have them come over under the uniform law dealing with witnesses. Those are the problems we have. We

can't even get to the bottom of the problem. That is what I think that Federal legislation aids us. If you are talking about out and out perjury, we know how to prosecute that. And, as a matter of fact, in the cases that we've handled up in Bergen County dealing with this problem, we have in fact indicted a number of people for perjury. But, let me also add this. There is no judge in the world that is going to do anything about an adoptive couple that come to court charged with perjury, or lying to a court, about an adoption because of their love for the child. They will look twice to do anything about that.

Mr. WIGGINS. I hope they look twice and turn it to counsel.

Mr. WOODCOCK. We are looking very closely at those people.

Mr. WIGGINS. Let me give you this hypothetical situation raised by one of you.

And that's a mother, pregnant, in the State of Missouri delivers a child and the child is transported by some agency to adoptive parents in the State of New York. And let us assume that a cash consideration, which is unreasonable and has no necessary relationship to actual cost, is paid to the adopting parents—excuse me, to the natural mother and to some agency. Where is the crime committed?

Mr. IAVARONE. If it were to occur in Illinois part of the crime, at least conspiracy, would occur in Illinois. Our problem is that Illinois mothers are being taken to these courts. But, realistically, for an Illinois prosecutor it would be almost impossible. The witnesses could be located on the east coast, Illinois—even though the child and the mother are from Illinois, it would be almost prohibitive for prosecution.

Mr. WIGGINS. I want you to get acquainted with the gentleman sitting next to you, because that's his job to prosecute those kind of cases. What would be the bar of your prosecution of that kind of case?

Mr. MORELLO. Well, where the child is then brought to New York?

Mr. WIGGINS. Yes.

Mr. MORELLO. And the payment was made in another place?

Mr. WIGGINS. Let's assume a New York attorney, with a focal point of the money, the adoptive parents are in New York and a very large sum of money would be paid to an attorney representing apparently their interests, but in fact for the purposes of the question, assume that that money is parceled out and is not paid strictly for his legal services but in part goes to perhaps broker and then in part to the natural mother, all of the various legal things, rather than improper things that we have been describing.

Mr. MORELLO. Under New York, Congressman, there are three possible crimes. The act of placing out, where you don't come within the authorized area of the statutes is a crime, a misdemeanor. And the acts of either receiving or offering a payment for an illegal placing out is also a misdemeanor. So assuming all the evidence is gatherable in New York County; or the State of New York since the process of the Supreme Court runs throughout the State, then it could be prosecuted there. But I don't think that that's enough of an answer. I think that the answer is that Congress must be concerned about an enterprise which is essentially an interstate enterprise. Surely it comes to rest in the State because at least a State court must process the adoption. I don't think the Congress can deal with perjury before the State court.

I certainly don't suggest that anybody should do that; nor should Congress deal with any deficiencies that may be with the probation service of a State court.

Mr. WIGGINS. Does New York statutes require exposures of fees paid or expenses incurred?

Mr. MORELLO. Yes. There are standard forms that will appear in a private adoption in which the natural mother will swear to what she has received. The lawyer will swear. The adoptive parents' lawyer, the adoptive parents will swear. And, if they all appear before the adoption court, they will reswear to that before the judge.

Mr. WIGGINS. And you will have perjury before your court?

Mr. MORELLO. Presuming that you had evidence that it was a false statement, and, under the laws of New York, unlike the Federal laws, you would require corroboration.

Mr. WIGGINS. Couldn't we, as a matter of Federal policy, either encourage or require a face-to-face dealing between natural parents and adoptive parents?

Mr. MORELLO. Well, I had suggested in my earlier statement and I'll go on a bit in my prepared statement, that I didn't read to you, that if you are going to occupy an area, that you ought to have a statute that deals just with that. That where it is not authorized by State law, a private placement that falls within the Federal jurisdiction should be a direct dealing where in fact that natural mother is reaching out to these adoptive parents. That means the State policy behind preserving a private adoption is obviously to secure to the biological parent, that doesn't want to keep custody of the child, the right to have a selection of some kind in where that child is going to go. Granted that it is going to be screened to a degree. Now, no one is suggesting that Congress or the States ought to end that, but what we are dealing with here, in the black-market baby racket, is taking this kind of State private adoption, legal situation, and perverting it. Perverting it by having the lawyer recruit the unwed mothers. Perverting it by having the lawyer recruit the adoptive parents. Perverting it by having the lawyer being the one who is going to shepherd the case through the adoption courts.

Believe me it is not unheard of in New York now, the courts are becoming vigilant about this and they are probing more, I am told. And we know of instances in which a family court, which has concurrent jurisdiction over the adoptions, said, "Bring in the natural mother, I want her testimony before me." And in that instance, the entire adoption proceeding was dropped and they withdrew it. When that happens, of course, we now have the baby in the hands of these people and the baby is in total limbo. So, I think what Congress has to direct itself to is the evidence that you have here, that State laws can be perverted.

Mr. WIGGINS. I believe they can, but I am not sure we can prevent the perversion of any statutes. I don't believe anybody here or there recommends that we have a Federal preemption of the adoption procedures, so that you go to a Federal court to adopt a child in this country.

We are talking rather about a possible criminal statute which would punish those who pay excessive amounts as determined by the statutes for the placement of a child and that child——

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It would seem to me that it is entirely possible for progressive State courts, acting under State law, and if those laws don't exist and essentially State legislatures require changes, to deal with the problem of excessive payments by simply making a disclosure in court, under oath. Now, you are going to get liars in Federal courts or State courts. But, you are the prosecutor and in the right case, you are going to send the doctor to jail, or an attorney to jail and you would have a great therapeutic effect, if that was to happen.

Mr. MORELLO. My own view, Congressman is, as I said before, that I think the bill should go a little bit differently. I am rather impressed by the bill that was submitted by Senator Kefauver, back in the 84th Congress, on this very subject which defines other kinds of crimes. And, with all due respect to the draftsmen of the current bill, I think something could be learned from that bill.

But to come back to an earlier point, it is nothing unheard of for Federal criminal jurisdiction to lie side by side in State jurisdiction. It happens all the time, gambling, narcotics, racketeering. This is such a place.

Mr. WIGGINS. I might conclude and let my colleagues have the questions before us. But, everyone up here practices law, and most of you down there practice law. Let me tell you just a couple of experiences. It would have to be common for everyone who deals with anyone who deals with people in the practice of law.

I have had doctors whom I have represented come to me for counseling and legal advice and they tell a story like this. "I have a patient who is pregnant, who wants to place a child for adoption. I also have another patient who wants desperately to have a child. Is there something I can do to put these two people together?" Well, now I won't tell you where I know them because it's not relevant to my remarks.

But, is there something socially wrong with that kind of connection being made privately, rather than taking the child after it is born from the mother and placing it in your agency, which effectively would preclude this other couple from ever getting a child?

Dr. CROW. May I respond to that?

Mr. WIGGINS. Sure. You are a member of the bar. You are sought as an expert for the physician who had no expertise and you gave it to him, in whatever dimensions you so chose. I hear attorneys saying they don't want nonattorneys practicing law. Physicians say they want to only physicians practicing medicine. And, I say as a social worker, I would like to see social workers be allowed to practice social work for which they were well trained, in terms of perceiving the probable future capability of the family into which the child will be placed. And yet we leave it to chance.

I tell you, if this were to become law and that same circumstance occured again, among other things I would have to tell the doctor that even if his patient, nonpregnant patients, wanted to pay reasonable charges for medical expenses incurred by the other, they would be committing a Federal crime. And, I don't know that the public interest is served by this.

Ms. ZEKMAN. Not unless they were being charged excessive profits.

Mr. WIGGINS. I am talking about the bill before us. I have invited careful scrutiny by you.

Ms. ZEKMAN. I would like to refer back to your prior observations, since I am not a lawyer.

As a practical matter, what reporters are told and this is in all due respect to all the distinguished prosecutors here—but we are told when we call and asked about the kinds of practices we have uncovered in these black-market rackets, we are told that the local district offices are without funds, without staff, and without any capability to go chasing across the country to get at the source of the babies. You point out that we can get—in New York we can get at the attorney who appears in courts and arranges for the final adoption. The problem comes in getting the other half of that whole operation who is in another State somewhere. It may be three States. It may be even in another country. And they simply cannot deal with them.

Mr. WIGGINS. Well, the prosecutor in New York is not eminent in those cases. But, let me tell you what I'm mostly concerned with.

Most adoptions are very happy events. They truly are. There are exceptions, as in the case of almost any—but really most adoptions are glorious events in the lives of the adopting parents who have complied scrupulously with the law and all standards, even though it be a private adoption. And, frequently, but not always, they are always not happy events.

We should not look at the world through the kind of jaded view that often an investigative reporter gets. I am sure Mr. Bernstein and Woodward think that the Government is corrupt from top to bottom because that's all they look at. But, do you know there are a few good things that occur from time to time elsewhere in the Government and we shouldn't throw out the baby if you allow the baby with the bath water here and prohibit those happier events in our society under the guise of getting just the tip of an iceberg.

Ms. ZEKMAN. Congressman, we wrote about those kinds of adoptions, independent placements, agency placements where the kind of profiteering we describe here did not occur. What we are talking about here is something that will stop the bad practices, get rid of the bad operators. We're not saying—we're not advocating the abolution of independent adoption. We know about attorneys who do a wonderful job.

Mr. WIGGINS. Disclosure under oath and inquiry by competent judges would be—seem to me to be an answer to this problem.

Mr. HYDE. Mr. Chairman, if I might just intervene. I share an understanding of Mr. Wiggins feelings on this problem, but I wish he would take another—first of all, we are dealing in rather a unique situation that has come up just recently, and that is the great scarcity of the available, and the availability of adoptable children. And this wasn't so back when you were practicing law, in fact when I was practicing law. It's just come about since 1973 when we got a different supply and demand situation.

In addition, I don't really see why you as an attorney and another gentleman as a doctor should select adopted parents without some investigation as to their suitability to be adoptive parents as to their age, their financial status, et cetera. I can see nothing wrong or antisocial with that.

Mr. WIGGINS. I assure you we didn't have a private meeting.

Mr. HYDE. I don't need that assurance. I am simply saying that to have a procedure whereby the capabilities and the appropriateness of the adoptive parents can be determined by an independent professional agency, and the profit taken out of it is all we are trying to do. Now, if there is a better way to draft a bill, I submit it to all of the superior talent in this room. But, there is a problem that demands Federal attention, and let's get an answer to it.

Mr. WIGGINS. Of course, the kind of preadoptive investigation, or postadoptive investigation, which is clearly desirable, and incidentally it is required in most States, is not dealt with at all in the legislation before us.

It couldn't be here unless we wanted to preempt a field that really has Federal adoptive practice and procedure. But to the extent that State laws are inadequate to investigate the suitability of adoptive parents to determine the genuineness and the voluntariness of a consent to adoption by natural parents, then that problem lies in State houses around this country and not here in this Congress.

Mr. IAVARONE. I would like to answer that. First of all, we have done a lot of investigation in New York. But, not all of these things occur in Cook County and New York. A lot of them occur in counties where there are only one or two prosecutors. Which makes it almost impossible if we are trying to work with a very small—many of them only have a part-time prosecutor. In Illinois we have 102 counties, each one with a separate jurisdiction. There are a lot of States the same way. And we are talking about a tremendous amount of time that we are spending in an office with one or two prosecutors.

Second, this is a nationwide organization. Congress has seen fit on many occasions, when there is nationwide problems, where there's business or organized crime, and to realize that a local county just is not equipped to do it. And that's what we are asking here.

I believe that most of this is a nationwide type of organization that crosses as many as five or six States and international boundaries.

If it only occurred in our county, I am sure with our laws we could handle it. Now, we are not talking at all about the welfare agency, we are just talking about the criminal law. You talk about—you said about adoptions being happy, and the one instance that I refer to in my statement. A lawyer called up and specialized in women over 35, telling them that they could no longer adopt and saying, "This is your last chance for a child, and I am taking bids." It took us a week to get to the evidence because all three women were under a doctor's care, because of being traumatized. This was another multistate operation that we happened to get because a woman complained to our office.

Now, I don't think we are asking the Federal Government to cure all the ills but to help us.

Mr. HALL. Let me ask you this question.

I know there is nowhere in the bill a statute of limitation. Does anyone have any suggestions as to what period of time should pass after which prosecution could not be brought?

Mr. MORELLO. I would think about 3 years, Mr. Chairman.

Mr. HALL. Three years from what?

Mr. MORELLO. Three years from the commission of the crime. Are you talking about the statute of limitations?

Mr. HALL. Yes.

Mr. MORELLO. Certainly no more than 5 and somewhere in the 3 to 5 years range I would think would be fair. If you realize that the transaction will begin in the second or third trimester of the natural mother, it will take another 3 to 4 months before the baby is born, another year before the adoption actually goes to the court. I am talking about a criminal enterprise that would last about 18 months. So, I would say to start the clock at about the beginning and run it from 3 to 5 years.

I am not familiar with the various options of your code.

Mr. HALL. Are you speaking of a direct violation on the part of the adoptive parents as well as some violation on the part of the actual mother? Are you still talking about your 3- to 5-year statute of limitation period?

Mr. MORELLO. At that point, if that is now an independent one then I would say your usual criminal law concept——

Mr. HALL. For instance, in the State of Texas, if you had 2 years from the time of perjury, or 1 year whatever the case may be, would you want that same to be applicable to this bill?

Mr. MORELLO. No; I think that it really shouldn't be an assimilated type of statute of limitation. I think you should define your own statute of limitation as you define your own crime.

In other words, I conceptualize it as being independent crimes being committed within Federal jurisdiction. And I think that they should follow the usual pattern in the United States Code as to when the crime is started. The elements should be defined by Congress and the usual procedures for calculating the statute of limitations should apply. And what you define as a felony or misdemeanor, that should be the appropriate statute of limitation.

Mr. HALL. The definition of children means someone up to and including 16 years of age. Now you can possibly have your statute of limitations being applicable after the person became an adult and possibly married.

Mr. MORELLO. I wouldn't advocate the upholding of the statute during the minority of the adopted child. I think that if there is going to be a prosecution, it should be reasonably close to the transaction and thereafter it should be allowed to rest. I would not think you should tack 3 years on to 16 or 18, or whatever.

Mr. HALL. Is it the consensus of the group here that there should be a face-to-face meeting between the natural mother and the adoptive parents, as was indicated here a moment ago?

Ms. ZEKMAN. No.

Mr. WIGGINS. It would be discouraged.

Ms. ZEKMAN. I think it would be up to the parties involved. One of the suggestions in Illinois is that the least we could do was to make sure that the natural mother is represented by separate counsel from the adoptive couple.

Mr. WIGGINS. Typical concerns of adoptive parents is that they don't want the natural mother coming in to get their baby.

Ms. ZEKMAN. That's right.

Mr. WIGGINS. And that's an understandable human concern. And they fear that if their identification, or whereabouts, is known to the natural mother in 5 years she is going to be looking for them. The question is should we insulate the two or not?

Mr. HALL. Mr. Gudger?

Mr. GUDGER. Mr. Chairman, I have a considerable amount of interest in this coming from a State which I think has dealt rather effectively with the matter. I have also served on the board of the only private placement agency in that State. That's the Children's Home Society of North Carolina.

We have only one child placement licensed agency. And, of course, the Department of Social Services takes care of the usual placements.

Our law does not prohibit private arrangements whether the adopting parents are relatives or not relatives. I think there are three or four States that prohibit private adoptions by nonrelatives and I can say that North Carolina is not in that group.

And we have had some problem about the evasion of our laws which are pretty specific in this area by the importing of children for placement into North Carolina from some of the areas at which I think this bill is addressed.

Our law in North Carolina provides that "no person, except a licensed child placement agency, or a county department of social services shall offer or give charge or accept any fee or compensation for receiving or placement arrangement of a child for adoption." So, we are consistent with what I think are the objectives of this act. We do not believe in the brokering of children.

Now, with that background, Congressman Hyde, I would like to say that I am sympathetic with what I think you are trying to achieve. You are trying to get at the broker of children in interstate commerce and yet not to interfere with the right of a parent, the right of the potential adoptive parent, to have interstate arrangements between themselves which are consistent with the laws of the State of the adoption, the State where the child is going to reside.

You have no objection to direct negotiation but you object to this brokering for a fee, and that is what I perceive to be the objective of your legislation.

Now the question that comes up is this. Is the brokering for adoption of children any more offensive than the brokering of a marriage? Is there anything inherently wrong?

I think this is the problem to which Congressman Wiggins has been addressing to your attention. Is it wrong, per se, or is it wrong only when it is fraudulent, or corrupt, or coercive, or indulged in, in such a manner as amount to a conspiracy, oppression, or fraud. Now who would care to speak to that?

Mr. HALL. Mr. Gudger, due to the fact that we have some bells ringing, would it be satisfactory if we recessed and came back at 1:30 p.m.?

[Whereupon at 12:30, the hearing was adjourned, to reconvene at 1:30 p.m., on Monday, March 21, 1977.]

Mr. HALL [presiding]. Mr. Gudger.

Mr. GUDGER. Thank you, Mr. Chairman, I will not undertake to repeat the question. It took about 3 minutes to express. But, I will express to the witnesses here this problem.

We have, I believe, in our earlier questions defined the fact that the woman may transport the child to the State where the child may ultimately be adopted. The potential adoptive parents may make a transfer, or any licensed agency may make such transfer. But this act

suggests that when a nonrelative, and one not in any of these positions makes the transfer, then that person would be subject to indictment and prosecution and penalty in the event that person charges an unreasonable charge for this service.

Now, my question is this. North Carolina, as I have stated, prohibits any person from acting as a broker with respect to a child unless that individual be a licensed agency or a governmental agency. Is it your concept that this committee could pass such a law, a law prohibiting any brokerage interstate by a nonrelative or someone who is neither parent nor potential adopting parent?

Mr. IAVARONE. Mr. Gudger, I know you asked about the difference between private adoptions and those for profit, what this part goes to. I think there's a big difference between the two—between making a profit and a private adoption.

Looking at the proposed bill, Illinois law on adoption is much more strict than the proposed bill. No one can charge anything more than the medical expenses for a natural mother. That's all that can be paid. This bill allows more. This does not mean that a lawyer would not be able to charge a fee. In the case of *People* v. *Spencer Schwartz*——

Mr. GUDGER. I am now concerned about the larger problem. I am dealing with the straight broker problem, where you have someone who is coming in here and moving the child across the State line. Now, I am asking you, do you feel that we could, acting for Congress, prohibit anyone other than a parent, or an adopting parent, or a licensed agent from making that transfer, and would that be a valid law in the sense that we would be prohibiting something that we have the power to prohibit?

Mr. IAVARONE. I don't think that there's any doubt that Congress can do it or has the authority to do it.

Mr. GUDGER. Even though this may be quite legal in the State to which the child is being transported and in the State from which the child is being transported?

Mr. IAVARONE. I do. I think that the law still would be valid.

Mr. GUDGER. Now, instead of taking that course, the proponents of this bill are advancing the proposition that we are not going to prohibit this transfer by this independent person or agency. But we are going to prohibit it if he charges an unreasonable fee. Is that correct? Is that the sense of this legislation?

[Several affirmative nods.]

Mr. GUDGER. Now who is to determine what is reasonable or unreasonable?

Mr. IAVARONE. That's the problem we have. And I think you all will be presented with that problem. And that's why Illinois was definite on what it said what it would allow for.

It's very easy to say medical expense is reasonable. But if somebody says reasonable expenses—what's reasonable for one adoptive mother and putting her up in the Ambassador East of Chicago versus just paying for the medical expenses, I think that is going to pose a problem.

Mr. GUDGER. In other words the real problem in this bill, probably along with some of these matters that have been suggested like the word "coercive" might well be broader word, such as "enticing" or "inducing" or "causes." But, the real controversy in the minds of any

lawyer is that we are making a criminal act—making criminal something that we are not specific in defining, by saying what is to be prohibited and what is not to be prohibited and we are using a word, or group of words which provide a somewhat vague or uncertain definition.

Now can any of you address to this committee your idea as to words which might be specific enough to make this bill valid and enforceable, specifically enforceable? Could you take the reasonable medical expenses plus 20 percent? Or could you take some arbitrary standard, where we would not be using these terms in line 20, "Fair, reasonable and customarily received for the same or similar services at the time and place such services are provided?" Can you give us something that you would suggest as a formula more specific?

Mr. IAVARONE. Can I read you a section of the Illinois law to show you how Illinois handled that?

Mr. GUDGER. Yes.

Mr. IAVARONE. The laws will not prevent the payment by a person with whom a child has been placed out, of reasonable and actual medical fees or hospital charges or services rendered in connection with the birth of such child if such payment is made to the physician or hospital who, or which, rendered the services to the natural mother of the child.

Illinois had the same problem and there it is the reasonable expenditures, which is easy to prove by bringing doctors in as witnesses to show what the reasonable medical expenses would be for this particular person.

Once you get beyond the medical expenses you do run into a problem because it would be very hard to prove. In Illinois, I know from our investigation we run from agencies who charge nothing to agencies which charge $6,000, so what would reasonable be?

Mr. GUDGER. Let me ask you this. Aren't you getting back to the problem which we presented earlier and aren't you looking at this as a social problem? Aren't you in effect prohibiting the charge of any sum in excess of those sums which do not reflect any profit or any reward for the industry and effort of this person who is intervening when you say that he is not to have anything except the expense that are involved in the delivery? Now, I am asking you, can you come up with a formula which would establish those charges as properly collectable provided they are proved and disbursed, plus some reasonable compensation for a valid service if it is not being performed extortionally. Do you see what I am getting at?

Ms. ZEKMAN. Are you talking about the attorneys' fees?

Mr. GUDGER. No, no. I am talking about the broker. There is nothing illegal about brokering child placement, providing it is done in an ethical and appropriate manner. But I think when you get in here and start charging exorbitant fees and making extreme profit then there is the incentive to get into an illegitimate exercise involving vast interstate network operations because there is a false profit, an artificial profit, and in most instances a corrupt profit that is involved.

Dr. CROW. Sir, in the testimony that I had prepared I have suggested that on page 3, line 14, the insertion of "after value is" the phrase "determined by the court where the petition for adoption is filed."

Mr. GUDGER. Which page of your testimony are you talking about?

Dr. CROW. At the top of page 5 might get to this issue, if we could believe there is some way that the court could determine reasonable costs. But not to deal with a brokerage fee at all. I don't see that being allowable at all. But reasonable legal fees, that's the rubric under which it applies now. In fact, nowhere do we find it really defined specifically as a brokerage fee. It's merely a legal fee. And then it may be brokered out to the home finder, or the child finder, or whatever.

I would suggest the insertion—that's page 3 of the bill line 14, item B. If such monetary value is determined by the court where the petition for adoption is filed is received for services, et cetera.

Mr. GUDGER. Now, Mr. Crow, while we are on that point, let me ask you this. Going over to line 4, on page 4, of the bill, I have no trouble at all with the restrictions of the proper legal fee to those which are properly chargeable for the appearance in the proceeding and the handling of the paperwork incident to that appearance.

Now, wouldn't this still be improved if we were to say here in line 4. on page 4, "For which legal fees charged are set by court order or are not in excess of an amount which is fair." Because in many of these proceedings court orders are applicable and this would allow adjudication into the reasonableness of the charges incident to the adoption proceeding itself.

But I do not see any validity for the attorney being involved in the brokerage of the child.

Dr. CROW. I would certainly agree with that.

Mr. GUDGER. So I would say that his appearance in the cause and his charge for those services should be subject to being set by the court that has jurisdiction, the probate court in most States. Or, if there is no procedure whereby the court makes such setting, then it be subject to such restrictions as you provide here. But that is really restrictive only to the charges which he is making for—the only valid appearance he could make, and that is the appearance in the proceedings of adoption.

Now, I still get back to this problem though, that I see no inherent evil in my helping to get two people together who are involved in the adoption, the transfer from the mother of the child to the potential adopting parents. I see no basic evil in that. It becomes evil when I am doing it corruptly. When I am exerting pressures on the mother. When I am extorting the potential adoptive parents. When I am making a business of selling infants. But there must be a point here where if I am acting properly and not from any of these sinister motives nor with any of these sinister acts of coercion or compulsion or corruption, that I could at least get back a reward for the time that I am spending, doing a good deed even. As Mr. Wiggins has pointed out so many of these adoptions are good adoptions. But I do have some concern about those who make a business of this thing and I certainly have great concern about those who have been described here who are acting corruptly or malevolently or extortionately, in their endeavor.

Can't we draw a line between the benign act and the malign act?

Dr. CROW. Congressman, I believe so very often we do with the best intentions and ever to beneficently, reward a family very desirous of having a child. And we do so by the placing of a baby there. I see

this done by an attorney and a physician getting together. I know of a case coming to our agency right now which is a situation which suggests that we have a very wealthy family, a husband and wife. They have all the accouterments of living. They have a fine home in the country. They have a beautiful home in the city. They have wealth. They could buy a baby. They have chose, now for the third agency attempt, to get a child. We know that their marriage is coming unglued. We know that they are having a great deal of interpersonal hostility and inability to relate to one another, much less to a child. As a professional agency, we have had to confront this family with the dysfunction of their relationship and the probable poor soil in which to place a child. In fact, I fear that within 6 months the child would begin to be neuroticised by a neurotic mother who ever attaches herself to this precious commodity now placed in hands to assuage her needs for companionship and love.

As a professional agency we owe it to that family to make a very decisive and definitive statement about what we see as the psychodynamics of a nonproductive environment for the child.

I don't feel, and I have never heard of an attorney having the expertise or even a general medical practitioner or gynecologist having the expertise to offer that kind of insight and that kind of definite statement. Because it seems to be an issue in the best interest of the child, not the need for two neurotic people to have an individual placed in their home that they can dote on or whatever.

And that's the issue, it seems to me, and I would hope for the record we can say that somebody has to speak for the best interest of that child and try to assure him/her the pest possible start. It seems to me when we have experts available, we should be using them. And I am pleased to hear that North Carolina has that in your statute.

Mr. GUDGER. Dr. Crow, I fully communicate with you in these concerns. You still have not come directly to my question and I am going to come back to it again in a moment.

Let me say this, that I am quite aware of the fact that in North Carolina we have prohibited anyone from serving for compensation in the position of brokering. And I think we have done right. I perceive that this bill may want to accomplish that same thing, but I don't think that it does. Because it says, "reasonable and fair change." And that's not criminal indictment language. You just—you can't deal with that kind of language ordinarily in the field of prosecuting crimes.

I am also fully aware of the service of social investigations in the child placement circumstances, either where you are dealing with the private placement agency, like mine where I served on the board of the Children's Home Society of North Carolina, or yours where you are working with the county services, social services.

I would remind you that the interstate compact on the placement of children clearly addresses those concerns. And the 37 States which are joined in that compact subscribed to the proposition that each child requiring placement "shall receive maximum opportunity to be placed in a suitable environment, and with persons or institutions having appropriate qualifications and facilities." And each child is entitled to have the appropriate authority in the State where the

child is to be placed to have full opportunity to ascertain the circumstances.

You and I both recognize that this is ultimately a responsibility of proper social placement of an adopted child. But my concern is this. There are many States that are not party to this compact. Only 37 are. There are 13 which are not. There are some States in which the brokering of a child is not a violation of law as it is mine, and in which the authors of the law see no evil in helping to place, make a private placement of a child until it becomes fraught with some of these circumstances that I have mentioned such as oppression and extortion, and syndication. These things.

Now what I am saying is with respect to those States which do not share North Carolina's attitude, and with respect to those States which are not so concerned about social placement, is there any way that we can draw an appropriate bill that will define a—specifically the recovery of these delivery charges and perhaps a small amount of additional compensation for what would be a bona fide time contribution to the bringing together of a willing parent who wants to surrender the child and a couple such as you described earlier without the marital complication, who wanted to adopt?

Dr. CROW. I am sure, and I will defer to the best legal minds, it could be done. I would suspect it could be done in the regulations that might accompany the enacted bill.

It could also further be attached to the funding process. We find in Federal legislation in the past, that there has been an overlooking of the fact of and the option for adoption. It has not really been a fundable service. Title 20 is getting around that. I think teeth could be put in it to accomplish some of the issues that you raised.

Mr. GUDGER. I think that we can work on this and mark up. I am not giving up hope. Don't misunderstand me, but I thought that you might afford some light. Thank you.

Mr. IAVARONE. I would just like to make some suggestions as to a way it could be handled.

Since the court is going to determine its legal fees, which is just and fair in a given jurisdiction and divide this into a percentage of the legal fee for the person that brings them together, like no more than exceeding half of the legal fee, or 75 percent. Because the court is going to set the legal fees for adoption.

Mr. GUDGER. But we are going to have to draw a law here, not something that submits itself to subsequent regulation, which specifies that whenever such and such a charge is made, which exceeds, say by 10 percent or by 1 percent, the amount of necessary medical expenses as in the Illinois statute, then we have a violation.

I think we've got to get to that. I don't believe that reasonable and necessary or something that's going to be later adjudicated suffices. A person is entitled to know when he commits a crime that he is violating the law and what the law is. We cannot have it determined later by some tribunal whom he will confront.

Mr. MORELLO. I think to put your finger on a problem, which I think lies in the text of this, but don't know whether by breaking this section out a little some of these difficult definitions can't be avoided. For example, my own view is on the question of placing out, granted that

the States have variously regulated, or not regulated the area, I think this bill in effect invites Congress to make a policy decision on the issue of placing out. And that will have the effect of—at least within the Federal jurisdiction—of setting down policy which another State might not have.

I certainly think Congress should opt for a situation very similar to the ones that you were describing in your own home State. I think that once you define a crime of placing out, within the Federal jurisdiction, then Congress says, "All right, we are prepared to make exceptions" as the current bill does. In other words, my suggestion is define the placing out part. All right, then, thereafter you can deal with the issues of compensation. Define the crime of coercion or enticement within the Federal jurisdiction—I emphasize again that I think your jurisdictional base here is too narrow, I think it has to include travel, I think it has to include use of the facilities of interstate commerce—once you define that kind of substantive criminal pattern, it seems to me that some of the issues as to payment become clear. If something is antecedently defined as crime, obviously pay or arrange for payment in order to achieve that, for example, if it is defined in your bill as being an illegal placement to accept, receive or offer to accept, or whatever your language is, a payment in furtherance of that, should clearly be criminalized. And, I don't think there is any question that that just follows automatically down the line.

Then, it seems to me you get down the situation where if the drafting becomes impossible you may not want to legislate at all. Now, you are talking about the narrow area where you have none of the earmarks of a black-market baby situation. Remember, if you define enticement as a crime, if you define placement as a crime, you are pretty much going to sweep all of the transactions that we've been talking about today within your ambit and at that point when you say, and if anyone receives or offers to pay money for that, it's an additional crime. You are going to deal with all these problems.

The other few instances, if you are talking about the lawyers—obviously, I don't think Congress should sit down and try to determine what is a reasonable legal fee for attorneys' services handling a private adoption. I think maybe States ought to. But, certainly, I don't think that is Congress business. If Congress feels they want to get into this area then they could have another one or any other payment within the Federal jurisdiction, not explicitly authorized by State law.

Mr. HALL. Well, isn't this bill primarily promulgated to not so much affect the attorneys' fee but to effect the placement fee, the illegal placement of these children throughout the United States and foreign countries in some areas.

Mr. MORELLO. Right. But my difficulty again only with the language of it, and I don't mean to nitpick or sound silly about it. I realize that much work is being done here and will be still done within your own counsel and committee structure. My problem is that by yoking these two concepts together, the placement and the payment, and putting them together into one section, you wound up with a thing that was linguistically so complicated that you're leading to these definition problems.

I agree with the gentleman that you cannot have regulations and later on define the crime. You can't say what's reasonable or unreasonable. I mean that's presumably unconstitutional on its very face. I think that if you define crimes like coercion, enticement, placement, payments in aid of those projects, and then you can't come up with legislative language that pass constitutional muster, for that narrow transaction that would then be unregulated I would say that, rather than to endanger the constitutionality of your bill, I would probably say discretion is the better part of valor and we will leave that unregulated.

But the broad black-market activities are going to be affected instantaneously if you pass a bill which criminalizes these activities we've been talking about today.

Mr. GUDGER. Mr. Morello, I trust I misunderstood you when you said, what I thought I understood you to say, that Congress should adopt or should enact a policy on adoption, or an adoption policy or concept.

Mr. MORELLO. No.

Mr. GUDGER. I don't think you meant to say that.

Mr. MORELLO. No, but I did.

Mr. GUDGER. Beg your pardon?

Mr. MORELLO. No, but I did, Mr. Gudger.

Mr. GUDGER. But I believe you did say it.

Mr. MORELLO. Oh, I did that. I meant to say that.

Mr. GUDGER. Oh, you meant to say that.

Mr. MORELLO. Oh, yes. I meant to say that.

Mr. GUDGER. All right. Then, you are saying that notwithstanding that the State of California may have its adoption policy, and the State of Florida, and the State of Illinois, highly different policies. Perhaps based upon different historic backgrounds, different religious impact. Some States have prohibited any nonrelative adoptions. This comes, perhaps, out of a history that has some religious roots. Yet, even so, knowing that there are these differences, social experience in these various States, you still say that Congress should impose—should adopt a policy and impose that upon these States?

Mr. MORELLO. I think that certainly my experience invites you to do that. I would think so. I am not worried about that and believe me, Mr. Congressman, it would hardly be the first time that Congress enacted a policy which did not have universal approbation in the States, even in the criminal law, say on the gambling issue. I also think it says to the States that they have complete power to regulate totally intrastate transactions. We are talking about an intraofficial type of jurisdiction now. And only when it crosses over is it going to——

Mr. GUDGER. Perhaps we are getting away from the meat of the bill that is confronting us and it may not be necessary to make that complete an adjustment. It may be that since we are going to address that sort of concern that it might be better addressed by the association made up of representatives from the legislatures of the several States which are constantly study compacts that will work out uniformity of laws between them. But I don't think that's our concern here. I think we are concerned with this particular bill, and I will withdraw from the philosophical engagement which we've been participating in.

I think all of us—all of you who are urging this cause, are suggest-

ing that we need to do something to terminate this kind of practice which you've described that is going on by means of transporting children away, far away, from their biological parents, or parent, into an entirely different environment with all of the social pressures that economic opportunity presents with this type of an indulgence and we want to stop that.

Now, I would like to say, Mr. Woodcock. I see you have been following the questions I've asked of these other gentlemen with some concern. Do you see a way that we can define this thing down to where there would be no trouble in having a formula where anyone could read the law and know when he's transgressing it?

Mr. WOODCOCK. My only view is that I think if we prohibit the trafficking in interstate commerce of any child for the purposes of adoption in another State in which there is a profit, or a monetary value going to, if you want to use your term, short-term brokers. I think if we take that and we try for a lack of transaction, then most of the things that we've been talking about here would disappear. Because, let me just say that the problem that we have in New Jersey is that the money isn't paid in New Jersey, because we can control that. The money is paid where the baby is received. If it's received in Illinois, the adoptive parents leave New Jersey, go out and meet an attorney in Illinois. There is no legal services rendered to either the adoptive parents or to the natural parent. The transfer is made after—after the mother pays or the adoptive parents pay something like $1,500, usually, by check and the balance of some $7,500 or more in small bills to that attorney, and then they go back to New Jersey and they proceed with an adoption, hire an attorney, an expert in that field and pay him what would be a legitimate fee under any circumstances in New Jersey and then we have the mischief having happened in Illinois but the people in Illinois don't know it, and we're hard put to find out about it, simply by reason of the fact that everything as I indicated before is in camera, and no one really reveals to us the presence of that attorney in Illinois.

Mr. GUDGER. Let me ask you a question. And I think this gets back to Mr. Morello's question. Suppose we were to enact a bill which made it a violation of Federal law to transport into any State which made it a criminal offense for anyone to broker a child?

Mr. WOODCOCK. That would be fine——

Mr. GUDGER. This would lead to the policy of each State that wanted protection from this type of offense to adopt a law similar to North Carolina.

Mr. WOODCOCK. I think that could be——

Mr. GUDGER. Do you see what I am driving at?

Mr. WOODCOCK. Right.

Mr. GUDGER. And we get away from the invasion of the philosophy of those States which have a different concept concerning the brokering of children.

Mr. WOODCOCK. Except that I do think that Congress and people of the United States in general should have some concern in the trafficking of children across States lines. If the State of North Carolina wants to establish a policy for adopting children within its jurisdiction and not taking them out of New Jersey or some other jurisdiction, that's fine. But, I think the Congress should be interested in

preventing even that kind, just because God knows that there are probably enough people in North Carolina that are looking for children to adopt. There are enough people in Illinois looking for children to be adopted—to adopt, without trafficking them between New Jersey and Illinois or any of the other 49 States.

Mr. GUDGER. Mr. Iavarone, this gets right to your Illinois situation. What do you think about it?

Mr. IAVARONE. I want to make one comment. You talk about getting together the whole group of people, which happens normally all the time by doctor's orders. Mostly though it's between—either the baby is in Cook County or the parents in Cook County or the next county over. Very seldom it's between State lines. A lawyer in Chicago knowing a doctor and I think that would alleviate. This is some of the problems—we are talking here about transporting children. I don't think that's going to stop anyone from going ahead and helping someone where there's a lawyer or doctor, as long as they follow the laws.

The problem we are up against in Illinois is that it seems like people are coming into Illinois and taking these pregnant girls out of Illinois to another State. To be very truthful about it we are not set up in Illinois to prosecute these people when they take them from another State or involved in a foreign country. It is almost physically impossible. We get involved in sending Assistants States Attorneys, and we are a fairly wealthy county compared to the rest of the State to—maybe New York or Florida to fight subpenas or to get records. We cannot possibly do this on a wide scale. The other counties in Illinois cannot do it at all. We are relying a lot on the cooperation of the local prosecutor in that district. We get very good relations with New York and New Jersey and try to help them; they try to help us. In other situations we can't. We have run into situations where brokers have corporation upon corporation and the corporations lead to Europe and then back to the United States. As a local prosecutor, we are almost helpless in a situation like that. We just cannot cope with it. Because of the prosecutions for brokering in Illinois, the actual brokering, or the transaction of having the baby in Illinois or the parents in Illinois has stopped and has steadily become a funnel for other States.

Mr. HALL. You made a comment a moment ago——

Mr. GUDGER. I yield.

Mr. HALL. You made a comment a while ago and it has something to do with Ms. Zekman's testimony this morning. Do I understand you to say that in some instances that people, or organizations are, taking pregnant girls across the State line for the purposes of placing those newly born children with adoptive parents? Is that your testimony?

Mr. IAVARONE. Yes, sir.

Ms. ZEKMAN. [Affirmative nod.]

Mr. HALL. Ms. Zekman stated about some weekly contacts she had with this attorney in New York and she (Ms. Zekman) testified about this "luxury place," and she (Ms. Zekman) saw two girls who went to New York and had babies. She chatted with them, and so forth, and she (Ms. Zekman) said they loved the whole experience so much she practically expected them (the girls) to say they would do it all again for Mr. Michelman. But what caught my eye was the reference to what

the gentleman just said. Have you in your investigative work run across any facts, or any situation that would lead you to believe that some of these girls are being used for the purposes of which you indicated?

Ms. ZEKMAN. I'm sorry. We ran across very specific cases where girls were transported, still pregnant, from Illinois——

Mr. HALL. My question was whether these two girls of whom you testified could, or would be used for this purpose for more than one time, just breeding farms?

Ms. ZEKMAN. We did not specifically uncover that in our investigation. There were instances of that reported in Florida in the year before our investigation in which there were actually baby farms run by a couple of attorneys who subsequently got indicted. The situation was so bad. And you did have a witness scheduled to appear before you, Mr. Carhart, from the Dade County State's Attorneys' Office, who I did interview about this situation.

The situation was so bad in Florida, the legislature there passed a law banning all interstate adoptions, and setting a ceiling of $500 for attorneys' fees on adoptions. It is the only State that bans interstate adoption. Girls were being used twice and three times there. Also, in California, I understand you may be visiting California for subsequent hearings. There was an operation there, advertised heavily and charged $15,000 for a baby and paid girls to get pregnant again. Girls were brought in from Hungary and Austria, I believe many countries, and they had actual tape recordings documenting girls going to a doctor that worked with this operation to find out when they were fertile and then making appointments to get pregnant.

Those are the only two cases I know of. I might add that in that California case it is the first successful prosecution of an interstate baby ring. They indicted 5 people. They were all convicted. They had to dredge up an old antislavery law in the State in order to bring the prosecution, but they could not touch the attorneys and doctors and abortion operators all around the United States who were feeding pregnant women and adoptive couples into this California-based agency. They couldn't indict them.

Mr. HALL. I'm getting into a theatrical case.

Suppose—now I am thinking about the provisions of the Mann Act. It appears to me that what you have just described has some of the doctors and lawyers getting right into the perimeter of violations of the Mann Act.

Ms. ZEKMAN. In those kinds of cases, perhaps yes. As I said, we didn't come across any situations in our investigations and we did 3 months worth of work on this to show that it was widespread, that girls were being paid to get pregnant several times over.

Mr. HALL. And for the baby to be adopted out, as you mentioned?

Ms. ZEKMAN. Yes.

Mr. HALL. You say that the Florida legislation passed a law banning all interstate adoptions?

Ms. ZEKMAN. That's right. It became a place where—a center for this kind of thing. It was so bad.

Mr. HALL. Well, how long has it been since that law has been passed?

Ms. ZEKMAN. At least a year.

Mr. HALL. Has your investigation indicated that it is effective?

Ms. ZEKMAN. Posing as both an adoptive mother and a natural mother, I tried telephoning——

Mr. HALL. I admire your spunk to say the least.

Ms. ZEKMAN. The two attorneys that were involved in these baby farms to see if I could arrange to get a baby from them or to go down there sit on my alleged pregnancy. And they both turned me away and said that there was a new law there and that they couldn't get involved in it anymore. The law is written.

Mr. HALL. Has that law been tested constitutionally?

Ms. ZEKMAN. That I do not know.

Mr. HALL. I wonder if a case has been through the court system that could be used as a model throughout the other States, banning the interstate adoptions?

Ms. ZEKMAN. I was hoping that the Florida people could be represented here today.

Mr. HALL. Mr. Hyde, do you have anything on it.

Mr. HYDE. We have an assistant State's attorney that I talked to, Mr. Carhart, who was to be here today and then Friday I learned that he could not come but was going to send a statement. If we have any more hearings, I will reinvite him. Because I think it would be most interesting to hear the Florida situation.

Mr. HALL. It appears to me that this would be getting into the area that we are interested in. If a State could adopt a statute that is constitutional, I would like to hear any testimony that might be brought before this committee.

Mr. HYDE. Mr. Chairman, if I may make a few comments and maybe ask a few questions apropos of the problem of vagueness of a criminal statute which is troubling all of us when you talk about reasonable charges and fees. Counsel has just shown me a copy of the Mann Act, the so-called white slave traffic, and I might point out that the language there says, any woman, or girl, for the purpose of prostitution or debauchery or for getting any other immoral purpose and that's about as vague a language as you can get after you leave the word prostitution. Or to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice. So I guess we have vague language in a lot of our criminal statutes when we get into this area. But it seems to me, and we are trying to come to grips with a great evil here, the parameters of the evil have been described in detail. We are probably not very successful at this point in drafting a statute that would effectively constitutionally criminalize that conduct.

I wish Mr. Wiggins had come back this afternoon because he has the most trouble with this concept. I believe the rest of us have trouble with the language and the detail but not the concept. But in any event, I think what we are driving at is that a transaction involving adoption ought not to be a profitable one. There ought not be a sale and our problem is how to adequately describe a sale for purposes of making it criminal. And we can't get into the area of setting fees, of setting charges, of setting expenses on a nationwide basis. I used in the initial draft "fair and reasonable" because that is a term that does have some meaning in the law. It does, certainly, in negligence actions, but I know that's not criminal.

40-502—79——5

There are cases, however, involving a tax law where reasonable has been interpreted by the U.S. Supreme Court, I think it's the *Reagan* case, as being reasonably definable for purposes of a criminal statute. There are other cases, the *Florida* case, after the *Reagan*, *United States* v. *Reagan*, that discounted that and said language very similar to our language here was unconstitutionally vague.

Now, Mr. Morello has drawn a new concept. He says let's find the reasonable fees and charges and all. Let's define the crime of placement. Let's define an illegal placement. And illegal placement across State lines or areas of international traffic, which might involve some compensation, any compensation reasonable or unreasonable, because they don't make any reasonble placement without compensation. We'll criminalize that. And that might do away with the problems we're having with what's a reasonable fee and what isn't.

We know, as attorneys, that where the problem arises is that an attorney acting not as an attorney, but a broker charges a fee, not an attorneys' fee, but a broker's fee. So we can—if we redraft this statute to correctly and clearly define an illegal placement, then even if he happens to be the attorney, but he gets compensation, that's compensation for the placement, not for any services he might have rendered in court. That might be the way to go. That seems to be a new approach and I have appealed to counsel and especially to prosecuting counsel there to help us draft language that will be an illegal place. It wouldn't be hopelessly vague when you get to the conversation.

Maybe the only way that we can do it—I want to be careful on enticement not to criminalize people who want to persuade girls not to get an abortion but to have the baby. I would be loathe to criminalize that activity because I think infinitely better to have the baby, even if it's in a sale than to have an abortion. Nevertheless, that is our problem and I think if we can define an illegal placement across State lines, we can have a useful statute.

So, I appeal to you, Mr. Woodcock, to you Mr. Morello, Mr. Iavarone, and counsel on the committee and any others to help us do that, if you will.

Mr. HALL. Are there any other questions?

Mr. HYDE. That's all I have, except to compliment the panel for their marvelous cooperation. They are here at their own expense giving up their time, because they believe this is a serious matter and want to do something about it. So, I commend every one of you tremendously for your public spirit.

Mr. HALL. Thank you so much for being present.

If there is nothing further, I do likewise thank you for being here and for the fine presentation made by all of the witnesses.

We stand adjourned.

[Whereupon, at 2:40 p.m., the hearing was adjourned.]

SALE OF CHILDREN IN INTERSTATE AND FOREIGN COMMERCE

MONDAY, APRIL 25, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE
OF THE COMMITTEE ON THE JUDICIARY,
San Francisco, Calif.

The subcommittee met in room 2007, Federal Building, 450 Golden Gate Avenue, San Francisco, Calif., at 8:30 a.m., Hon. James R. Mann (chairman of the subcommittee) presiding.

Present: Representatives Mann and Hyde.

Staff members present: Thomas W. Hutchison, counsel; Toni Lawson, assistant counsel; and Raymond V. Smietanka, associate counsel.

Mr. MANN. The Subcommittee on Criminal Justice will please come to order.

The subcommittee has been asked to permit coverage of this hearing by means of motion picture photography, still photography, tape recordings, and other similar methods.

Is there any objection?

[No response.]

There being no objection, such coverage will be permitted in accordance with rule V(a) of the committee's rules of procedure.

This morning the Subcommittee on Criminal Justice of the House Judiciary Committee resumes hearings on H.R. 2826 and related bills dealing with what is sometimes known as "baby selling".

H.R. 2826 will amend title 18 of the United States Code to provide felony criminal penalties for soliciting or receiving payments for: One, arranging the placement of a child for adoption; or two, coercing someone to place a child for adoption, to adopt a child, or to provide any child with permanent care.

These penalties would apply if the child involved was taken across State lines. They would not apply if the person involved was a parent, guardian, adoptive parent, or someone licensed to place children for adoption, if the money involved was reasonable and was for services in connection with the placement of the child.

It would also not apply to persons who receive reasonable legal fees for legal services performed in connection with the adoption of a child.

At our initial hearing on this legislation, we received testimony from an investigative reporter, several local prosecutors, and a representative of a child welfare agency. Today we will hear from witnesses from the California Department of Health and from two county social service agencies, as well as from a UPI reporter.

The principal sponsor of the legislation is a member of this subcommittee, Representative Henry J. Hyde of Illinois. I now call upon Representative Hyde for any statement that he might wish to make.

Mr. HYDE. Thank you, Mr. Chairman.

We are delighted to be out here in San Francisco.

The subject matter of our inquiry has been well stated by the chairman. Baby selling is an extremely difficult abuse to draw legislation on that criminalizes the activity without being unconstitutionally vague.

What we want to learn are the dimensions of the problem and its interstate and the international scope, because these aspects would be justification for the Federal Government intervening and criminalizing this activity.

We have already heard testimony in Washington from people from Chicago, New York, New Jersey, and other places, indicating the nature and the extent of this situation.

With the unavailability of adoption children today, children have become an expensive commodity. We have found that they are being bought and sold like chattels, many times to parents who are ill fitted to be adoptive parents and many times they are adopting an infant that they don't know a great deal about concerning the health of the infant, the background, et cetera.

The point is that a human being should not be treated as a chattel. So, we are here to try to learn what we can from the witnesses on this side of the country. Hopefully, this will contribute toward us getting workable legislation that will criminalize this activity.

We have learned that it has international implications. Infants are being imported from overseas for this sort of thing. I want to make it perfectly clear that we are supportive of adoptions. We want adopting parents to find children. We surely want orphaned children to find adopting parents.

But we want to make sure that the welfare of the infant is seen to and not just simply the matter of a fast buck for some broker.

So, thank you, Mr. Chairman. I am ready to proceed.

Mr. MANN. Thank you, Mr. Hyde.

Our first group of witnesses are from the California State Department of Health. We have Mr. Rich Koppes, attorney; Mr. Donald Score, chief of the operation support unit; and from the office of health investigation, Mr. Emory.

Mr. KOPPES. Excuse me, Mr. Chairman. I am Rich Koppes from the department of health. Mr. Emory has not arrived from Los Angeles yet. Could we possibly delay our testimony until Mr. Emory gets here?

Mr. MANN. Yes, sir; you certainly may.

Mr. KOPPES. Thank you.

Mr. MANN. In that case we will begin with Mr. George Frank. Mr. Frank is a reporter with the Sacramento bureau of UPI.

We are delighted to have you, Mr. Frank.

TESTIMONY OF GEORGE FRANK, REPORTER FOR UNITED PRESS INTERNATIONAL, SACRAMENTO

Mr. FRANK. Thank you, Mr. Chairman.

Mr. MANN. Do we have a written statement from you?

Mr. FRANK. No; I just have notes that I will speak from.

Mr. MANN. That will be fine. You may proceed.

Mr. FRANK. Mr. Chairman and members, my name is George Frank. I am a reporter for United Press International in Sacramento.

The committee has asked me to appear here today to discuss a two-part series which UPI ran in the latter part of December. John Moody of our New York City bureau and myself spent 2 months interviewing natural mothers, lawyers, prosecutors, adopting parents, and government adoption specialists at the State and Federal level.

The main series attempted to give a temporary view of adoptions in the United States during a time when there is a shortage of healthy white babies available for adoption.

Natural mothers were interviewed about the pressures that they underwent surrounding adoptions and relinquishment of children.

Along with the main story were two separate stories dealing with newborn babies brought into the United States from Mexico, and California infants going to Idaho for adoption.

The Mexico story dealt with a Chicago attorney who brought Mexican-born babies across the border and placed them with American families for a flat fee of $5,000. Since the UPI story appeared, Mexican officials have started an investigation into the matter. The results are unknown at this point.

The California-Idaho case dealt with a doctor-lawyer brother team who arranged more than a dozen adoptions over a 2-year period. The doctor was then practicing in Los Angeles and the lawyer was in Idaho Falls, Idaho. The parents—most of whom flew to California to pick up the children—paid between $2,500 and $4,000 for each child, or each adoption.

The brother said that the cost covered hospital expenses, medical and legal fees. As you are well aware, information concerning adoptions is hard to come by. Adoption records are sealed for the protection of the children and for the adopting parents.

Attorneys do not like to talk about adoptions, nor do the parents, for fear of losing their children, especially if the adoptions are questionable. Even forms—some of them required by law—are not always filed when they are supposed to be.

For example, when I attempted to verify that the adoptions between California and Idaho took place, I checked the State department of health for that verification. They said that they had no record of the children—all newborn babies—being released from a southern California hospital.

In California, when babies leave hospitals, they have to fill out a special form when the infant is released to other than the natural parents. I checked with the hospital. Officials there said that the forms had been mistakenly or inadvertently attached to the babies' permanent records and filed away in a hospital file cabinet.

After several calls to the hospital, one official dismissed the matter by saying, "We goofed," but the forms were then sent to the department of health immediately. In California, that is illegal in the sense that the statutes require that they be filed within 48 hours. However, there is no penalty for not sending them to the health department within the time specified.

I just briefly want to talk about—there are other forms that California requires, too, that are filled out by social workers that are called "irregular placement forms." These are filled out by social workers who are close to the cases. When they feel that something is not regular about the adoption, they fill them out and send them to the State department of health.

I will just relate a couple of these stories to you so you can get a feel for what is going on in California between other States.

In an 18-month period in 1975 through 1976, the department received 250 such complaints. All these complaints involved doctors and attorneys. Here is an example of one such case. And this is pretty close to the way that the form was filled out by the social worker. It said:

Petitioners retained a Beverly Hills attorney to find a child to adopt. In May 1975, the attorney notified the prospective parents that the natural mother would place her expected child. When the minor was born in Missouri, the adopting parents went to St. Louis where another attorney removed the minor from the hospital and gave her to the Petitioners. All parties then traveled to Illinois, where the natural mother consented to the proposed adoption before a judge. The new parents and the baby then returned to California.

The report said that the adopting parents and the natural mother, who was a young girl from a small town who wanted to keep the birth secret, never met. It said that $3,000 was paid by the parents for medical and legal expenses.

Another example from these forms is as follows: According to the adopting parents, they learned of the baby's availability for adoption from a Beverly Hills attorney. The attorney telephoned them in February. They flew to Florida that day and received the minor from the hospital of birth the following day in Melbourn, Fla. The natural mother and the adopting parents met in court when the mother released custody of the child.

The parents in this case paid $2,800 for the adoption, including a $750 fee to the natural mother's attorney and $1,300 in fees to the California attorney.

Another case is that a New York woman who knew a Florida attorney who was trying to find a home for a natural mother's baby. She knew this attorney. She told her daughter in California, who contacted the Florida attorney and also hired a California attorney who was a personal friend.

The adopting parents paid $1,000 to the California attorney, $1,000 to the Florida attorney, and $2,300 for hospital and medical expenses.

That's the end of any prepared remarks that I have.

One thing that I learned working on this story over a 2-month period—and longer than that actually—was the trouble I had defining a black-market baby, which is an easy definition to throw out.

The only guideline I had was a California attorney general's opinion which quoted another Wisconsin attorney general's opinion where they said that: "Experience has shown that so-called irregular placements do immeasurable harm in many respects. They have come to be known popularly as the 'black market in babies.'"

It goes on and on, but that's the—well, it's hard to define the area. That's one of the problems that I had when I was rsearching this story.

Mr. MANN. Thank you, Mr. Frank.

Mr. Hyde, do you want to inquire?

Mr. HYDE. Of those three cases that you investigated or reported on, was there an investigation done on the adopting parents to determine their suitability for these children?

Mr. FRANK. Well, in California, the way the law is I imagine—although I did not investigate this specifically—I imagine when the final adoption papers were signed in California and went to court, there eventually was a social worker that checked that family.

I don't think that any contact was made in any of the cases with the natural mother.

Mr. HYDE. Were these adoptions all legally consummated in California or were the adoptions in other States?

Mr. FRANK. Well, the relinquishments and the custodies in the one case were in Illinois and they came back here and they were finally consummated in California.

Mr. HYDE. The adoption was here, right.

You see, the problem with these are that the only qualification for the adopting parents seems to be having the cash. The suitability of the parents—whether they are temperamentally and emotionally stable, whether they will be able to provide a good environment for raising a child, other than having affluence—are all important factors that many times are missing in this type of an adoption.

That is not to mention that it makes it more difficult for worthy parents who are not affluent to adopt a child. They are simply selling them to the highest bidder. We have even heard of auctions going on where baby broker has more than one couple seeking to adopt and he raises the ante.

But you have had no experience really in locating any cases like this, other than the hearsay that you heard about?

Mr. FRANK. Well, in the one case between California and Idaho where the fees are in the area of being questionable, when the fees get up into the $4,000 area, now that one involves the children leaving California and going to Idaho and being placed in a family. That is finally consummated by a court eventually and at some point a social worker does go to the home. But as you know, once a child is placed in a home, it's very difficult to remove it. There would have to be gross negligence.

Mr. HYDE. I have no further questions.

Mr. MANN. Did you determine that California State law or Idaho State law was violated in any way in connection with these, other than the failure to file the report that you referred to?

Mr. FRANK. Well, Idaho does not have a law. They just joined the interstate compact, so there will be some restrictions on it, but the Idaho law does not really cover that area of child selling.

Mr. MANN. It is merely the regular adoption law which provides for social department investigation and approval by the court——

Mr. FRANK. Yes.

Mr. MANN [continuing]. Of the adoption?

Mr. FRANK. After the child is placed.

Mr. MANN. Right. Well, does California have such a law that you know of that prevents payment of a price?

Mr. FRANK. They have—it's kind of antiquated. In the statutes is the suggestion that it should not go above $500, but that statute is quite old. With realistic inflation, it doesn't really cover it. That, I think, is more of a suggestion.

I think the attorney from the health department can explain a little bit better.

Mr. MANN. Fine. I am curious because I haven't researched this as to whether or not any of the 50 States have a law which specifically prohibits the acquisition of a child.

I know that the trend has been, of course, to set up procedures which limit, abolish, or prevent private adoptions by having the social welfare department of the State, as a precondition of the adoption, investigate and approve of it. But other than the evidentiary pressure that can be exerted at the time by the adopting court, by the court of jurisdiction, is there any law, penalty, or sanction that you have discovered, other than the California law that you referred to?

Is there any law in Idaho, Florida, or anywhere that actually makes it an offense of some sort for a person to acquire a child through private sources?

Mr. FRANK. I know that in Florida now on interstate adoptions—if I remember correctly—it has to go through the social welfare department if it goes interstate. I think New York has laws against selling children, but then it's like, you know, trying to find the records.

If an attorney wants to sell a child, I would imagine that there would be no records of that.

Mr. MANN. I am just trying to get a quick education here. I am sure that the staff, in the process of working on this bill, will furnish us with a breakdown of all the State laws on the subject.

Counsel, do you have any questions?

Mr. HUTCHISON. No.

Mr. MANN. Mr. Smietanka?

Mr. SMIETANKA. No.

Mr. MANN. Thank you so much, Mr. Frank, for taking the time to help us out.

Mr. FRANK. Thank you.

Mr. MANN. Is Mr. Emory here yet?

Mr. KOPPES. No; he is not.

Mr. MANN. Our next witness will be Dorothy Murphy, division supervisor of childrens' services, San Francisco County Department of Social Services.

It's very nice to have you with us, Ms. Murphy.

Ms. MURPHY. Thank you, Mr. Chairman.

Mr. MANN. I believe that we are going to also take Betty Massey at the same time. Is that your understanding?

Ms. MURPHY. That's right.

Mr. MANN. All right. Betty Massey, will you come forward, please? Ms. Massey is a natural parent worker with the Sacramento County Welfare Department's Adoptions Division. It is nice to have you ladies with us.

Ms. Massey, we have your written statement, which we will make a part of the record. You may testify in such a manner as you please with reference to synopsizing or briefing it.

Ms. MASSEY. Thank you, Mr. Chairman.

Mr. MANN. All right. Have you agreed on who is going first?

Ms. MURPHY. Since Ms. Massey has a prepared statement, maybe she should go first. I will fill in after she has gone.

Mr. MANN. All right.
Ms. Massey, you may proceed.
[The prepared statement of Ms. Massey follows:]

PREPARED STATEMENT OF BETTY MASSEY, MSW, NATURAL PARENT WORKER, SACRAMENTO COUNTY WELFARE DEPARTMENT—ADOPTIONS DIVISION

Sirs, I wish first to establish the parameters of my presentation. I have no first hand experience with the sale for cash of babies, nor do I have statistics of research completed in the area. However, my colleagues and I have had many experiences in which women, particularly young adolescents, were subtly coerced by doctors and attorneys to place their baby in a family selected by them. I will focus my remarks in that area.

It is generally accepted that women are in need of emotional support during a pregnancy; it is at best a trying time. An adolescent who is freightened and confused by her condition and who is frequently left without the usual sources of emotional support, i.e., parents, husband, boyfriend, is in special need of understanding and caring. She becomes vulnerable to influences from any source of help especially a source which is traditionally seen as a reliever of pain, a comforter, someone who takes care of the problem. Some doctors and attorneys actively seek to "take care of the problem".

To illustrate how this problem is handled I offer the following: In our Adoption Agency we are currently working with three young girls who have been approached by their doctors to place their unborn babies independently. In the first case, Margret is 18 years of age. She is so troubled by her situation that she does not wish to discuss her pregnancy or notify the natural father of her situation and plans to relinquish her baby for adoption through our agency. She has been approached by her doctor who suggested she place the baby with a family his nurse knows. The doctor, according to Margret, explained that she would not have to discuss her reasons for relinquishing and the natural father would not be notified. Section 7017 of California Civil Code indicates that the natural father must be involved in the adoption planning. By telling the girl she does not need to deal with her feelings regarding the pregnancy and her plan to relinquish he denies her the opportunity to deal with her ambivalence and grief around giving up the baby. This can result in two distinct possibilities, 1) the girl will soon have a second child to replace the one she 'lost', 2) she will ask for the return of her baby.

In our second case Julie, 17, reports she has been advised by her doctor to place independently. She trusts the doctor's judgment because he says he knows the family personally. She says the doctor told her to not discuss anything with our agency but rather just tell us she had decided to keep the baby. Julie said she was also told that she would not be saving the family money by going through an agency as the family would only be paying her doctor an 'adoption fee' of about $500. I would point out that Julie is on Medi-Cal. In this case it seems the doctor sees himself functioning as an adoption agency. Little of his training, to my knowledge, equips him to deal with the complex social problem of an unwanted pregnancy. The multi-faceted problem involves the interpersonal relationship of the mother, her parents, the baby's father and the community at large. It also includes the intrapersonal problem of how the mother views herself as a person for having produced the baby. It is an unreasonable an expectation of his time for a medical doctor to attempt to deal with this social problem as it is for me, a social worker, to attempt to prescribe drugs for a physical illness.

As I stated before a woman is vulnerable to influence during her pregnancy. This is particularly true in respect to her doctor for we are all taught to obey his instructions. During her pregnancy a woman is exceptionally sensitive to her relationship to the doctor. He is the one who protects her and the unborn and he can stop the pain during the delivery. No woman can escape the reality of the doctor's importance to her and her baby. It is a rare individual who can ignore the subtle implications of her doctor's position and authority when he asks her to let him place the baby with a family he knows. I believe this is coercion of a most insidious type and denies the mother her right to freely consider all alternatives.

I have not seen the emotional needs of a mother considered nor any assistance given to her when a family decides not to accept a baby. Usually a frantic hospital staff member calls to tell us an independent placement has fallen through

and will we please hurry over to pick up a baby and help the mother, who is understandably upset. In this situation we generally have had no prior contact with the new mother.

The stories we get about attorneys are more limited as many times we have little or no contact with a girl who places independently and we drop out of the picture when a girl tells us she has decided to keep or to place her baby independently. However, we have had young women who were our clients tell us of attorneys calling them at home or at a local home for unwed mothers. The client reports that the attorney will state that he has a wonderful family he would like her to place her baby with when it is born. If the girl refuses to consider it he tells her that she is cruel and is hurting this fine young couple who want so much to have a child of their own.

A short time ago a girl, who was planning to place her baby through our agency, reported that her doctor had given her name to an attorney who called her in the hospital following delivery and asked her to let him place the baby. She refused saying she would use the agency. The attorney then came on the maternity ward and verbally assaulted her in his attempt to coerce her into signing placement papers he had with him.

About nine (9) months ago one of my clients was being actively pressured to place her unborn independently. She asked her own attorney to investigate the family and to arrange for her to meet them. She reported he told her that was ridiculous and he would not do it. He would only negotiate a good deal for her. She did place independently but later asked for the return of the child.

The mothers I have known who place their children independently were not given cash money but rather some were offered a car, dental work paid for or living expenses met for a period of time. If the girl accepts anything she feels obligated to let the couple keep the child even if she changes her mind and wants the baby back. All the young women with whom I have worked who placed their babies independently were supported during their pregnancy by public Aid To Families With Dependent Children (AFDC) funds and the delivery cost were paid for by mediCal funds.

RECOMMENDATIONS

(1) That the mother and natural father be advised in writing in clear, simple English or their native language of all their rights prior to their signing any papers authorizing an independent placement.

(2) That interstate placement funds be made available to meet all transportation and other expenses incurred by a woman who decides on reclaiming her child. An adolescent is without funds to pursue getting her child back particularly if it has left the state, thus preventing her from taking any action.

(3) That coercion be broadly defined to include the more subtle emotional pressure which does not allow the mother to consider keeping the baby or give her time to reconsider her decision after its birth and before it leaves the state.

(4) That items in addition to cash be reported i.e., vacation trips, cars or other expensive gifts that are often given to natural parents in the bargaining for the child.

(5) That doctors and attorneys be prohibited from initiating contacts or discussions regarding an independent placement.

TESTIMONY OF BETTY MASSEY, NATURAL PARENT WORKER, ADOPTIONS DIVISION, SACRAMENTO COUNTY DEPARTMENT OF WELFARE

Ms. MASSEY. I would like to respond to questions about what happens when a baby is placed independently and the adoption goes to court.

I did talk to some of my friends at the State level and they stated that even if they find the family very questionable, the judges are reluctant to ask that the child be removed once it is in the home because a relationship has been established between the parent and child and it has been there for perhaps several months. So, it becomes very difficult to remove the child once it is there.

Today, what I would like to relate to is what I see happening with the girls when they are in contact with an agency and how they are pressured to give up their children independently.

This is not a situation where the girl, on her own, initiates the contact with a doctor or an attorney for the purposes of placing her child independently, but rather, they initiate the contact with her. I think our attorneys at the State level will tell you that this is against California State law.

Only the girl can initiate the contact for an independent adoption. Only a licensed adoption agency can initiate contact with the girl for the purpose of placing her baby for adoption. We have currently three cases where the girls have been approached by their doctors to place their children for adoption.

In one case, the girl is very troubled by her pregnancy and is not really wanting to deal with it. Her boyfriend is not aware of her pregnancy and she does not want to inform him of that fact. She is planning on relinquishing her baby to the agency, but her doctor has approached her and says that he would like her to place her baby with a family whom his nurse knows.

He said that if she does it that way, she will not have to discuss why she wants to relinquish the baby, nor will she have to inform her boyfriend. This is in direct contradiction with California law, which says that a young man must be informed in the placement of his child.

It also creates some problems for the girl, in that girls really need to deal with their feelings about the pregnancy and to deal with the grief process that they must go through in order to resolve their pain about giving up the baby and the loss of the child. If this is not dealt with, the girls frequently will have a second child or ask for the return of the baby.

In another case, a doctor has approached a girl and asked her to give her baby to a family that he knows personally. He says that she should not tell the agency that she is going to place the baby independently and he reassures her that she will not be saving the family any money by going through the agency, as he only plans to charge the family a $500 adoption fee.

So, I assume from that statement that he sees himself actually functioning as an adoption agency—using the same kind of fee basis that we as a State-licensed agency use.

Mr. MANN. Did you understand that that was in addition to the medical fee, or not?

Ms. MASSEY. He referred her to an obstetrician who will be getting the feel for delivering the baby. She is on medicaid, so even that fee will be paid by the State government or the Federal Government.

Mr. MANN. I see.

Ms. MASSEY. In the third case, a girl has been approached by a doctor who says that his nurse knows a second nurse who knows a family who says they wish to adopt a healthy infant. He found this better than our agency process.

His rationale for suggesting that she place the baby independently, rather than going through an agency, is that the baby is moved immediately to the adopting home, rather than going temporarily to

a foster home. He told her that agency practice of doing that is bad and implied that it is harmful to the baby to stay in a foster home for a 2- or 3-week period of time, as the baby should be able to start establishing a relationship immediately.

She found this very attractive because the man who is responsible for her physical well-being during her pregnancy has suggested that he has a better plan than we do.

Our contact in terms of attorneys has been somewhat more limited. The reason is that when the girl says she is going to keep the baby or that she is going to go independently, we step out of the picture and the State does not actually become involved until the baby is placed and a petition is filed.

Some of our girls have told us some unusual stories, though. Doctors have given the girls' addresses, telephone numbers, names—and that is confidential information—to attorneys. The girls have been telephoned at home and asked if they would give their babies to a couple that the attorney has selected. When the girl says that she is going through the agency, the attorney will tell her that she is a very cruel person, that she is really hurting the couple that he has selected for her child.

He says that after all, she is planning to give the baby up, so why not give it to this couple?

We have had girls actually contacted in the maternity ward by attorneys and asked to give up the babies at that point to a family.

In one situation recently, the attorney came in the ward after the girl had previously refused and brought placement papers and harangued the girl for a period of time until she was quite hysterical. Her father, fortunately, walked in and ordered the attorney to leave.

These are just a few of the situations and means whereby doctors and attorneys really coerce girls to give up their babies independently.

You have my statement and my recommendations as to how we might be able to at least decrease this problem.

Mr. MANN. Thank you so much.

Ms. Murphy, would you like to proceed with your statement?

Ms. MURPHY. Certainly.

TESTIMONY OF DOROTHY MURPHY, DIVISION SUPERVISOR OF CHILDREN'S SERVICES, SAN FRANCISCO COUNTY DEPARTMENT OF SOCIAL SERVICES

Ms. MURPHY. I am Dorothy Murphy, division supervisor of children's services for San Francisco County.

Our current experience is very similar to that described by Ms. Massey, where we have girls calling us from the hospital almost hysterical saying, "Please get me out of here. The nurses are haranguing me, the doctors are haranguing me, they have sent attorneys in to see me, but I want to work through the agency."

We have had a uniform parentage act since January 1976, which does require that the alleged natural fathers be included in any relinquishment process. This is held out by some attorneys as, "The agencies are going to be very persnickety and go by the letter of the law, and if you actually say that you don't know who the father is—you never knew

his name—that is legal, but they're not going to tell you that. They are going to try to get the name of the father so that he will be contacted and involved."

This is very difficult for some girls, particularly if the man is married, and they feel they do want to protect him. They are often willing to assume full responsibility and want to relinquish the baby without involving the man. So, we do have this kind of thing.

California has established laws in an effect to avoid this kind of black-market selling. We are also part of the interstate compact for the placement of children. I won't go into the law, because Mr. Koppes can do that far better than I.

The agency adoptions are usually not the ones in which this occurs, No. 1, because we are geared to finding the best possible family for the child, whereas in an independent adoption, it is usually an effort to find a child for patients of the doctor, or clients of an attorney, or parishioners of a clergyman—something of this kind.

While we are not against independent adoptions and feel that this should be an alternative plan open to parents, we feel that there should be more protection to the child—something like a preplacement study of the family, so that the girl actually knows that this family meets the same kind of requirements that the agency is putting down for their families—that they are a stable family, that they are of a reasonable age to attempt to rear a child and that they are not being chosen because they can afford to pay a great deal more money.

Both the private and public agencies in California have a fee schedule, but it is geared to the families that cannot afford to pay a large fee. It can be waived—in fact, we have subsidized adoptions for families that cannot afford to take a child unless we can help them, if it is a child with handicaps or a child otherwise hard to place.

The only thing I might add that Ms. Massey did not cover is that we sometimes have people coming to us after the fact. They have gotten themselves into what is obviously some kind of hot water and they come to us in an effort to be extricated from this.

Unfortunately, in most cases we are not able to do anything because—as was brought out by the reporter, Mr. Frank the—family is so afraid of losing the child. In some of the cases that I have dealt with, the girl went into the hospital giving the name of the adoptive parents. Therefore, it just does not show up on the hospital release form as being released to anybody other than the mother.

The birth certificate is made out in the names of the adoptive parents right then. Then as time goes on, the adoptive parents get very nervous because they see TV shows where the parents came back to claim the child, or they read a series such as Mr. Frank's and they become very upset.

Then they come to us to see if there is something we can do to help them have a secret finalization of an adoption when an adoption process has not even been started because there is only a falsified birth certificate.

We have had others where they don't go to court because they find out that the mother is not willing to sign the consent. In one instance it was because the mother had told the father of the child that she was keeping the baby, and he was paying her support money for the baby every month, although the baby had actually been placed for adoption.

But she was refusing to sign the consent, which meant that they could not go to court. The petition to adopt had not been filed, so that the State department of health was not aware of the fact that this child had been placed for adoption. Again, it was a question of jiggling names and filing inaccurate forms at the time that the baby left the hospital.

So, it is this kind of thing that we are in on, because we don't do independent adoptions, and most of the agency adoptions—hopefully, all of them—are in strict accordance with the law. The study of the family is done before the baby is placed there.

Mr. MANN. Thank you, Ms. Murphy.

Mr. Hyde?

Mr. HYDE. Well, Ms. Massey or Ms. Murphy, in independent adoptions, do you know whether or not there is any investigation of the adopting parents that is required by the court?

Ms. MURPHY. Yes.

Mr. HYDE. Who performs that investigation?

Ms. MURPHY. In some counties, the county agencies are licensed to do independent studies, as well as relinquishment adoptions. But this is only in a few counties.

In other instances, the State department of health goes in. But as Ms. Massey pointed out, the child is placed at birth with the couple. Perhaps 6 months later the agency is asked to go in and make an investigation. Even when they are recommending against the adoption because they found the parents unsuitable, the judge is very loath to remove the child.

We recently had a case where the superior court judge did rule that the child should be removed from the home and the appellate court overturned that. The family still does have this baby.

Mr. HYDE. Under your adoptions, where do the adopting parents come from? From a waiting list of people who apply for a child?

Ms. MURPHY. For babies, they are on a waiting list. If they want older children, we usually have the child waiting for them as soon as we can find a home. But for healthy children up to the age of 5 years, we have 62 approved families waiting.

Mr. HYDE. How long is the longest wait for an adoption?

Ms. MURPHY. About 2 years.

Mr. HYDE. There is a shortage, I take it, of adoptable children?

Ms. MURPHY. Of young adoptable healthy children.

Mr. HYDE. Right. The vice then—if it is a vice—of the procedure, is that a child is placed with a family and is in the environment for a matter of months before there is any workup done as to whether or not it is an appropriate environment. Is that correct?

Ms. MURPHY. That's true.

Ms. MASSEY. Yes.

Mr. HYDE. In other words, if the baby is picked up at the hospital, there is hardly a chance to investigate the background of the parents as to whether there is a disturbed marriage, or alcoholism, or whatever.

And then by the time the social worker gets around to it, it is the court that is reluctant—unless it is a gross situation—to interfere?

Ms. MURPHY. The law——

Mr. HYDE. That is the judge's problem, then, isn't it?

Ms. MURPHY. Right. The law prohibits a social worker from removing that child. It has to go to court.

Mr. HYDE. Right.

Ms. MURPHY. Then it is up to the judge to decide whether he will abide by the recommendation of the social worker or not.

Mr. HYDE. And your comment is that the judges are just loath to do this once the relationship has been established?

Ms. MURPHY. Unless it is very gross, yes.

Mr. HYDE. Well, that is really—the law cannot correct that, I suppose. It is up to the judges to be a little more sensitive, I suppose, to that situation.

About these girls being pressured, you were telling us that the tug of war is between the agency adoption and the independent adoption and that the brokers or hustlers—no matter under what guise they come—are trying to take the infant and put it, place it through an independent adoption where the favored attorneys, doctors—not doctors, because you are dealing with a doctor, but the favored attorneys or adopting parents will benefit, rather than going through the agency.

Is that what you are saying?

Ms. MASSEY. No. I am talking about only a very few circumstances where the girl is in contact with an agency and then is approached by a doctor. Most girls who are going to go independently are approached at the time that they discover that they are pregnant. Therefore, they never come to the attention of an agency. So, they are totally unprotected. No one is there to tell them that they have a right to change their mind or what their legal rights are around adoptions. They are told, "Make the decision now."

Mr. HYDE. But how do you know that they are not told, though, in the independent situation?

Mr. MASSEY. I only know of the cases where the girls came to the agency and I asked them:

Did the doctor tell you that you have this right, like you can select a parent, you can see them, you can say "no," or you can change your mind after the baby is born, you can ask for the child to be reclaimed.

And they always say:

No. He only told me that if I gave them the baby, they would come and pick it up at the hospital. It would go to their home. That's it.

Mr. HYDE. But the matters that you are relating occur when there is a pregnant girl being supervised—or the situation being supervised—by the agency and she is approached and the suggestion is made that she go the other route?

Ms. MASSEY. Right.

Mr. HYDE. The independent route. And they actually have come into hospitals——

Ms. MASSEY. Yes.

Mr. HYDE [continuing]. To do this?

Ms. MASSEY. Right.

Mr. HYDE. You have direct knowledge of this?

Ms. MASSEY. Yes.

Mr. HYDE. Is there any disciplinary action ever taken by the bar association or the medical societies?

Ms. MASSEY. We do write the State and inform them when we see irregular practices or placements going on. We have an obligation to do that.

Right now, as I understand it, it is only a misdemeanor in our State for a doctor or attorney to approach a girl——

Mr. HYDE. But I think there might be professional sanctions by the bar association, by the medical societies. And my question is, do you report those things to those disciplinary committees?

Ms. MASSEY. I believe the State does, after a second violation. Now, we can only report to the State. At least, that is our practice.

Mr. HYDE. It is your practice?

Ms. MASSEY. Right.

Mr. HYDE. Don't you think it might be helpful when you have evidence of an irregular adoption involving a doctor or attorney that you notify the local bar association?

Ms. MASSEY. Yes.

Mr. HYDE. That might——

Ms. MASSEY. Help out?

Mr. HYDE. Well, act as a deterrent to this particular type of practice. I am simply suggesting that. Everybody complains that there are no prosecutions, but very few witnesses come forward with evidence. That is part of the problem.

Ms. MASSEY. Yes. I think another problem, too, is that even if we report it to the district attorney's office, if he has to choose between expending funds for a felony and expending funds for a misdemeanor, he should expend for the felonies.

Mr. HYDE. Sure. And I suggest that it might not be that level of situation, but a bar association, which is interested in the character and fitness of licensed attorneys and a medical society, which is interested in the reputation of the profession and the character and fitness of the doctors, would be a very interested party.

They have people who deal with these things. Not in a criminal matter, but they have sanctions of suspension of a license, of revocation, and that sort of thing. So, you might think in those terms, rather than in the criminal terms. It could be very effective.

Thank you. I have no further questions.

Mr. MANN. In a San Francisco independent adoption, who would the court call upon to conduct the investigation?

Ms. MURPHY. The department of health, because we are not licensed for independent adoptions.

Mr. MANN. All right. The department of health.

Ms. MURPHY. That is, the State department of health.

Mr. MANN. And all of the judges require that, as far as you can determine?

Ms. MURPHY. Yes.

Mr. MANN. What about the woman for whom the pregancy is a financial disaster? The loss of time from work—Medical doesn't take care of that.

Ms. MASSEY. Right.

Mr. MANN. What does your agency do?

Ms. MASSEY. Well, she can receive aid to dependent children prior to the birth of the child and, of course, that includes the mediCal program. So, her medical needs are met during that period of time.

Following the birth of the child, she is automatically discontinued during the next month, which means during her recovery period—6 weeks after the birth of the baby—she frequently has no funds or even a Medical card to pay for the 6-week visit.

This is one of the things that doctors and attorneys use as a means of getting the baby, because they say, "We will meet your living expenses for 1 month or 2 months or 3 months or whatever, following the delivery of the baby."And that's very attractive.

Mr. MANN. A very human response.

Ms. MURPHY. Right.

Mr. MANN. All right. Counsel, any questions?

Mr. HUTCHINSON. No.

Mr. MANN. Mr. Smietanka?

Mr. SMIETANKA. No.

Mr. MANN. All right.

Mr. HYDE. May I ask a couple more?

What is the real problem—what is the difference between an independent adoption and an adoption through an agency if really the same procedure occurs? Is it just that your families are more in line and on an equitable basis?

But if a workup is done of the adopting parents, as much protection, then, exists in the independent adoptions as in the agency adoptions, doesn't it?

Ms. MURPHY. Not really, because our study is much more indepth. It is a series of at least four interviews, usually five or six interviews, and references are required. It goes over a period of about 3 months. The department of health makes one visit to the home to see the couple and the baby.

I think we are able to find out a lot of things—such as a rocky marriage—by seeing the parents interact together in the home on many more occasions, and seeing them separately out of the home for interviews, so that it is a very much more indepth study.

The department of health has—it's one of the age-old problems—a small staff to cover a large number of counties. We are a very large State, you know. They are lucky to get in and spend 2 hours with the couple.

The other thing is that the law really is flouted. The law provides that it is the girl who looks for the couple and places the child with this couple. It is done by attorneys and doctors almost universally. It is very seldom that the girl makes the placement.

Mr. HYDE. It may well be desirable that the girl not know even where the baby is, lest there be problems in later life.

Ms. MURPHY. This may be true, but this is not what the law provides.

Mr. HYDE. What about the baby? Is a workup done—in other words, are the parents ever victimized, say, by receiving an epiliptic child or something like that there is no information about? I would think that would not happen under the agency, but what about the independent adoptions? Do you know of——

Ms. MURPHY. The baby has to have a physical examination. This is part of the court procedures reported to the judge at the time the baby is adopted. It's reported that the baby was seen on such and such a date and was found to be in good health. They face the same risks that we do.

There are genetic factors of which we are unaware and we do have people coming back to us saying that the child is now showing these kinds of symptoms and the doctor is wondering if there is anything in the natural mother's family which would give a predisposition to something. In fact, in the last few years we have gone into medical background a lot more carefully than we did before, in terms of the grandparents of the child and so forth, because there has been so much more work done in genetic illness.

So, we do try very hard. The independent adoption does require physical examinations of the adoptive parents and also of the child.

Mr. HYDE. Thank you.

Ms. MASSEY. There is another factor that we are not speaking to, too. That is, what happens to the girl in an agency adoption? The girl is always kept informed of her rights and the fact that she can change her mind. There is a period of time between when she actually has the child and when she can sign the relinquishment papers. We are always very circumspect about taking a relinquishment and advising her at different points of exactly what she is signing and what are the implications of signing.

An independent adoption in which the girl gives the baby to an attorney or to a doctor, she is frequently told that she cannot change her mind after she leaves the hospital, that she has signed some paper that forever binds her to this agreement. She is not adequately informed as to her rights to request the return of the child at any point.

In fact, even on the papers in which she is informed as to who the parents are and where the child is being placed, the information is frequently covered so that she does not have access to that knowledge, which she has the right to have.

Mr. HYDE. Where does she sign the relinquishment? In the clerk's office sometimes, or is it in open court?

Ms. MASSEY. That is done with the State department of health's independent program.

Mr. HYDE. Why doesn't the State department of health have an information sheet containing all this information which can be given to her at the time she signs?

Ms. MASSEY. They attempt to do that, yes. But that is several months later. At that point, if they say, "We don't feel this couple is adequate," the judge is not going to want to give the baby back.

By that point, I believe the girl has to have court permission—if she has signed the consent, she has to have court permission—to take the baby back. Prior to that time, the court has to be informed that she wants it back.

Mr. HYDE. Is a guardian ad litem appointed for each adoption by the court?

Ms. MASSEY. I don't know.

Ms. MURPHY. No.

Mr. HYDE. All right. Thank you very much.

Mr. MANN. Thank you, ladies, for being here and relating your experience to us.

Ms. MASSEY. Thank you.

Mr. MANN. We will now hear from the representatives of the California State Department of Health, Mr. Richard H. Koppes, Mr. Donald Score, and Mr. Robert Emory.

Gentlemen, I have in my possession a formal statement by Mr. Donald Score which, without objection, will be made a part of the record.

[The prepared statement of Mr. Score follows:]

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY,
DEPARTMENT OF HEALTH,
Sacramento, Calif., April 23, 1977.

Hon. PETER W. RODINO, Jr.,
Chairman, Congress of the United States,
Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR MR. RODINO: Attached is my formal statement of testimony to be presented before your committee on April 25, 1977 at San Francisco, California.

Respectfully,

DONALD L. SCORE,
Chief, Operations Support Unit,
Office of Health Investigations.

Attachment.

PREPARED STATEMENT OF DONALD L. SCORE, CHIEF, OPERATIONS SUPPORT UNIT, OFFICE OF HEALTH INVESTIGATIONS

Mr. Chairman and Members of the Committee, my name is Donald Score. I am Chief of the Operations Support Unit, Office of Health Investigations for the California Department of Health.

I have been asked to testify in regard to H.R. 117 from the standpoint of an experienced investigator. I began my investigations career some thirty years ago as a ships officer assigned to inquire into maritime accidents involving U.S. merchant marine vessels and personnel. I subsequently became a member of the U.S. Army's Counterintelligence Corps and following that experience have held a variety of investigative posts in both the private and public sectors. In 1967 I was one of the original two professional investigators hired by the State of California to investigate fraud and abuse in its Medi-Cal Program and have been active in health care investigations ever since.

From the perspective of an investigator who in the immediate past has done extensive work in the adoptions area, I would say that the possibility of organized baby selling on an intra-state basis in California presents little, if any, problem for us. California has adequate State laws and mechanisms to control those adoptions where the entire process occurs within our borders. However, I cannot say the same for the inter-state sale of babies.

I firmly believe that H.R. 117 is an excellent approach for the federal government to take to curb abusive, for-profit adoption practices between and among the several states, territories and possessions.

Rather than extend this personal expression that the bill would be an improvement, perhaps I could respond to specific questions the committee has, or perhaps cite an example or two of the procedural problems faced by the investigator in pursuing this kind of case and how this law might improve the existing inter-state adoptive situation.

TESTIMONY OF RICHARD H. KOPPES, DONALD L. SCORE, AND ROBERT EMORY OF THE CALIFORNIA STATE DEPARTMENT OF HEALTH

Mr. MANN. Are there other such written statements to be submitted?

Mr. KOPPES. No, sir; I don't believe so. We were just notified on Friday of this hearing.

Mr. MANN. All right. Mr. Koppes, you may begin.

Mr. KOPPES. Yes, Mr. Chairman.

I was wondering, for the purposes of clarification—I received a copy of H.R. 117. Are those similar bills?

Mr. MANN. Same bills, just reintroduced with additional sponsors.

Mr. KOPPES. I see.

Mr. MANN. For the record, on your left is Mr. Score and on your right is Mr. Emory.

Mr. KOPPES. Mr. Chairman and Mr. Hyde, my name is Richard H. Koppes. I am assistant chief counsel for the California State Department of Health. In that capacity, I have responsibility for all legal matters relating to mental health and social services, which includes the adoption and foster care programs in the State of California.

The department of health is charged by the legislature with overall statewide responsibility for adoptions in California.

In addition to my job-related responsibilities, I am the immediate past chairman of the California State Bar Adoptions Committee and am currently serving as a State bar board of governors adviser to that committee. I am also an adoptive parent and therefore, have not only professional interest in adoptions, but a personal interest in seeing that adoption process, and those persons involved in it, protected from those who attempt to enrich themselves over the misfortunes of others.

For the purposes of our discussion today, I believe a few statistics recently released by my department on adoptions in California indicate the need for some form of action, both at the State and Federal level, in affording protection to the adoption process.

In 1966–67, there were a little over 28,000 requests made to California adoption agencies to adopt a child. In that same period—1966–67—there were almost 12,000 adoptions granted in California. However, compare this with statistics for 1974–75, during which time there were over 45,000 requests to adopt and only 4,500 adoptions finalized.

Thus, in 1966–67, for every two requests to adopt there was one adoption. But in 1974–75, for every 10 requests there was only 1 adoption. We simply have fewer and fewer children to adopt today, and we have increasing numbers of willing and anxious prospective adoptive parents.

California has recognized the potential trouble that such a situation may pose to the adoption process and has taken a number of steps in an attempt to deal with this problem.

First, California has joined with 38 other States as a member of the interstate compact on the placement of children. Second, we have committed additional investigative and legal resources to this area. Such efforts have been successful with one matter leading to a series of convictions and with several current cases in the active investigative stages.

The two gentlemen with me today will discuss these matters and the problems relating to them in more detail after my testimony.

Lastly, the State department of health has sponsored a bill in our State legislature, senate bill 1122, just recently introduced, which will attempt to bring our private independent adoptions program under stricter control and scrutiny.

But I do not believe that California's actions are, by themselves, sufficient to combat the abuses of adoption practices that are profit oriented. I believe this is an area in which the Federal Government must also become involved. Without exception, the cases that we have

uncovered have involved interstate adoptions. Because of this, I believe H.R. 117 and H.R. 2826 comprise an excellent approach for the Federal Government to take action to curb abusive, for-profit adoption practices between and among the several States, territories, and possessions.

It is my belief that this bill would provide needed unity and simplicity to a controversial and complex area of law in human and domestic relations. I therefore urge your committee to vote favorably on this bill and to provide for the people of California another tool to not only combat fraud and abuse, but to also safeguard the adoption process.

Thank you.

Mr. Chairman, we could have Mr. Score and Mr. Emory testify and then answer any questions that you might have.

Mr. MANN. Fine. Mr. Score, would you like to proceed?

Mr. SCORE. Mr. Chairman and Mr. Hyde, my name is Donald Score. I am chief of the operations support unit, Office of Health Investigations for the California State Department of Health.

I have been asked to testify in regard to H.R. 117 from the standpoint of an experienced investigator. I began my investigations career some 30 years ago as a ship's officer assigned to inquire into maritime accidents involving U.S. merchant vessels and personnel.

I subsequently became a member of the U.S. Army counter-intelligence corps and following that experience have held a variety of investigative posts in both the private and public sectors. In 1967, I was one of the original two professional investigators hired by the State of California to investigate fraud and abuse in the mediCal program. I have been active in health care investigations ever since.

From the perspective of an investigator, who in the immediate past has done extensive work in the adoptions area, I would say that the possibility of organized baby selling on an intrastate basis in California presents little, if any, problem for us.

California has adequate State laws and mechanisms to control those adoptions where the entire process takes place within our borders. However, I cannot say the same for interstate sale of babies.

I firmly believe that H.R. 117 is an excellent approach for the Federal Government to take to curb abusive, for-profit adoption practices between and among the several States, territories, and possessions.

Rather than extend this personal expression that the bill would be an improvement, perhaps I could respond to specific questions that the committee may have, or perhaps cite an example or two of the procedural problems faced by the investigator in pursuing this kind of case and how this law might improve the existing interstate adoption situation.

Mr. MANN. Thank you, Mr. Score.

Mr. Emory?

Mr. EMORY. Thank you, Mr. Chairman and Mr. Hyde. I am a special investigator, Bob Emory, assigned to the State department of health in Los Angeles. I was one of the investigators who handled the Ronald Robert Silverton situation, which involved a former attorney, also a former CPA in Los Angeles, who was traveling throughout the country contacting various planned parenthood organizations, different adoption services, abortion clinics.

He also contacted medical doctors, in an attempt to have these people who possibly knew of girls who were pregnant, especially girls who were unwed and pregnant—particularly girls that might be on welfare or mediCal—and induce these girls not to have an abortion, but to go ahead and have their babies and turn the babies over to him so that he could place them in a suitable home.

Now, I have a summary here of some things. Unfortunately, I only became aware of this committee meeting on Friday at 8 o'clock, so please bear with me. I tried to be as prepared as possible, but if I am not, please bear with me.

Mr. MANN. If you feel that will be useful for us, we will be pleased to have you submit it to us within the next week in writing.

Mr. EMORY. Fine, sir. I have a few things that I can bring out now, sir.

Mr. MANN. All right.

Mr. EMORY. A summary of prosecution regarding Ronald Robert Silverton. male, 41 years of age. This is Ronald Robert Silverton, former CPA and former attorney.

The case began with Ronald Silverton who was sent to prison in Chino for violation of the insurance laws. While in prison, he concocted an idea called Save a Life Adoption Service. He contacted other prisoners who were also incarcerated for various crimes and contacted these people and told them of how wonderful it would be to make money on selling a baby.

Silverton represented an indictment concerning five individuals—we started with Silverton and we wound up with five. There were 14 counts of criminal conspiracy and related illegal adoption practices. That case recently culminated in a 2-month trial. All five defendants have sustained one or more criminal convictions.

Within the framework of an organization called Save a Life Adoption Service, Ronald Silverman, with the assistance of his codefendants and other persons, developed contacts with pregnant women and sold babies for $10,000 or more. He paid expectant mothers sums of money to induce the adoptions and prepared falsified documents which were presented to the court witnessing consent to adopt forms.

The scope of Save a Life Adoption Service included contacts with various States and foreign countries. Among the States involved were California, Oregon, Arizona, Utah, Arkansas, Massachusetts, New York, New Jersey, Florida, Louisiana, and Kentucky.

Evidence also obtained indicated connections with Canada, Mexico, England, Ireland, Denmark, Yugoslavia, Spain, and a number of the Caribbean islands.

Silverton, the primary defendant in the prosecution, is a convicted felon and suspended attorney who conceived of the idea of a baby-selling scheme while in State prison. After his release, he sought to establish a constant supply of nondefective, newborn caucasian infants.

To develop contacts, he went to welfare organizations, abortion clinics, and planned parenthood associations where he offered the employees kickback fees of $500 up to $1,000 as an incentive for making an introduction. In one instance, he even proposed a free baby for five referrals.

Similarly, he approached obstetricians and induced cooperation by offering a sum of money in excess of their set medical charges. At least

one person was hired to approach visibly pregnant girls on the street and give them a pitch as to the benefits of Save a Life Adoption Service. Advertising in the personnel columns of newspapers was another means utilized to promulgate this service.

Evidence of paid babymaking and incentive to get pregnant were uncovered during the course of the investigation, as well as efforts to promote new sources of supply in foreign nations. Premiums to get pregnant, subsidization during confinement, and bonuses upon delivery had been offered.

In the initial phase of operations, the pregnant girls were offered an expense-free vacation in a hotel in the Caribbean, with a guaranteed return bankroll of $3,000. This was presumably a salary for token light housework.

While Silverton had made claims of such completed arrangements, none were actually uncovered. Later, the propositions became more modest—maintenance up to $1,000, doctors' costs, and hospital bills. The object was to maximize profits which were projected to exceed $3.3 million in the first 2 years of operation. This was after absorbing a deficit running expense for the first 6 months.

At no time did Silverton or his cohorts obtain any license to run a home planning agency, which under California law, would have to be nonprofit. Instead, there was an attempt to run the service under the guise that it was merely an alternative by which the natural mother was making a choice of adoptive parents and hence was within the scope of a lawful, private placement adoption.

There were three completed acts of baby selling by Save a Life Adoption Service. Each of these were for $10,000 and involved the interstate transfer of children. In addition, there was a sale of $11,000 to undercover officers assuming the identities of a couple who had actually made the preliminary arrangements.

There were two other offers to sell babies, one at $10,000 and the other at $15,000. Both of these overtures specified that the children would be turned over to California couples outside this State. In total, various documents seized on a search warrant reflected an established price range from $10,000 to $20,000.

In the instances of completed transfers, the natural mothers were kept ignorant of the fees charged by Silverton. Thus, consent froms contained false statements and were fraudulently obtained. In these cases, the mothers were led to believe that the fees paid by the adopting parents were either nonexistent or marginal.

Some difficulties encountered in prosecuting a black-market baby seller engaged in interstate transport of infants for the purpose of adoption are the following: Lack of investigative authority, and machinery necessary to transcend intraterritorial boundaries; the absence of any permanent governmental records preserved in involved States; the inability to gain access to the adoption records maintained by receiving States; cumbersome procedures required by compelling attendance of out-of-State witnesses in criminal prosecutions; jurisdictional limitations on the power of subpenaing records and ununiform regulations pertaining to interstate adoption procedures.

The interstate compact on the placement of children furnishes only a partial remedy. But its terms, bringing a child into a receiving State is not permitted until written notice containing the identities of the

parties and a statement of reasons are transmitted by the sending State to the receiving State, which then must approve the proposed placement in advance of allowing the release.

Thus, this act in cooperating jurisdictions does institute a record-keeping system and a determination of parental suitability before the child is permitted to enter the receiving State. Other than these two controls, little is accomplished.

The following points are not covered by this legislation: Custody without investigation can be transferred as long as a child is not sent to another signature State until approval is obtained. The act has no application to nonsubscribing States. The law does not regulate placements to subscriber States from nonsubscriber States, nor vice versa.

Foreign countries, except for Canada, cannot join as coparticipants. There is no prohibition against profit-motivated organizations engaged in adoption activities. There are not provisions to check, control, or eliminate the amount or character of finder's fees, referral charges, or adoption costs. There is no disclosure requirement that all direct or indirect costs, fees and charges requested, paid or agreed upon, be revealed in any of the specified documents.

It is my opinion that this compact will not reduce nor control baby selling. The procedures grafted into that law can be readily evaded. I suggest that any planned or proposed Federal legislation should establish preplacement suitability investigations, scrutinized placements to and from foreign countries, prohibit all profit-motivated fees associated with interstate and international adoptions, require disclosure of all costs pertaining to the adoption.

The problems engendered by this activity can effectively be regulated by comprehensive Federal legislation.

Mr. MANN. Thank you, sir.

Mr. Koppes, will you please submit to the committee a list of the appropriate State laws dealing with this subject?

Mr. KOPPES. Yes, sir.

Mr. MANN. And if you will, also treat the inadequacies that you see in those laws, with reference to both intrastate and interstate applications.

Mr. KOPPES. Yes, sir, I would be happy to.

Mr. MANN. Mr. Hyde?

Mr. HYDE. Thank you, Mr. Chairman.

Mr. Emory, I am fascinated by your narration. You will provide use with all of that, in writing, when you can?

Mr. EMORY. Yes, sir.

Mr. KOPPES. Yes; he would be happy to.

Mr. HYDE. Did I understand you to say that Silverton made $3 million in 1 year?

Mr. EMORY. No, sir. While in prison, he concocted the idea of Save a Life Adoption Service, and while he was still in prison—remember, he was a CPA—he had a big long sheet about 18 inches wide by 12 inches high from July 1, 1973, through June 30, 1975—that 2-year period—he estimated that in July, August, September, and so forth—the first 6 months, his profits would be, intake would be phenomenal.

However, as the adoption services progressed each month that it was in existence, at the end of 2 years he figured that this take, or the money taken in, would be $3.3 million.

Mr. HYDE. Then, this was just his conjecture?

Mr. EMORY. Yes, sir.

Mr. HYDE. You have no idea of what he actually made, do you?

Mr. EMORY. Well, we know of at least three cases where babies were sold for between $10,000 and $20,000.

Mr. HYDE. Were those adoptions handled here in California?

Mr. EMORY. They started in California. The babies were obtained in California and the babies left California. One went to New York State and one went to New Jersey and the other went to Utah.

Mr. HYDE. In other words, the actual adoptions were consummated out of State?

Mr. EMORY. Yes, sir.

Mr. HYDE. And you don't know whether the courts in those States required any investigation of the adopting parents, or not? Do you know?

Mr. EMORY. I doubt it very much, Mr. Hyde. One of the things about Mr. Silverton—by acting as an intermediary for these pregnant girls, these people were not investigated. So therefore, the people who bought the babies and also the people who actually gave them up, were not being investigated.

No one even knew if the babies were defective or not.

Mr. HYDE. Well, how do you know that some court did not require some social worker or some agency to provide an investigation of the adopting parents before signing a decree of adoption. Do you know——

Mr. EMERY. I don't know that for sure.

Mr. HYDE. You don't know?

Mr. EMERY. No, sir.

Mr. HYDE. All right. My comment to Mr. Koppes as the attorney is—I think all three of you have outlined the problem and the inadequacies of State law dealing with an international and certainly an interstate problem.

My difficulty is to try and draft language that eliminates profit from these adoptions, without being unconstitutionally vague. It is a difficult problem. There is something wrong here. To try to get at it legislatively is what we are dealing with.

So, if you think about that—as many minds as we can get to deal with this problem and help us with the language—I would certainly appreciate it.

Mr. KOPPES. I can't agree with you more, Mr. Hyde. I think that the interstate compact on placement of children has come a long way in protecting the children themselves, at least in those States that are members of the compact.

However, we see a real deficiency in getting the profit out of the, you know, the large fees and the other abuses that go on. I would be happy if we could think up language. We will submit that to you.

Mr. HYDE. Thank you very much.

I just want to state for the record that I am disturbed not about people being talked out of abortions—I think maybe a poor adoption may be better than the best abortion in the world—but we still have a problem of dealing with human lives, and not treating them as chattels.

Mr. MANN. Gentlemen, thank you very much.

Oh, Mr. Smietanka has one more question.

Mr. SMIETANKA. Mr. Score, I wanted to ask you briefly what the difficulties are for an investigator in trying to investigate something that has happened interstate?

Mr. SCORE. Well, there are multiple difficulties. One which every investigator faces, at least here in California, is that we have 58 district counties—each with a local district attorney, and you have to locate a prosecutor who knows the legal theory behind your case. We don't have too many laws that are enforceable on an interstate basis.

It's a major problem sending an investigator 3,000 miles away and setting up interviews. If a witness disapears, if a contact is sick, you can't go back a second time. The scheduling alone is fantastic. If you are talking about a State-level investigator who is working with a local county district attorney, then both should go. And you then face the problem of getting sufficient funds to make the trip—that is horrendous.

As far as the pace of the investigation is concerned, just going through the normal bureaucratic channels to get permission to leave your State and move from one point to another takes excessive time.

Again, as has already been stated with the *Silverton* case, voluntary witnesses are not usually found in this sort of a case. Therefore, you can imagine the problems in sending someone out of State—and the witness does not want to talk.

You have a problem when attorneys are involved. That is the situation we are speaking of today. They may very well be of high standing in their own community and as an investigator trying to obtain certain elements of information, you have no leverage—other than a handshake in the local jurisdiction—you may or may not get cooperation.

I think this is why I am so interested in seeing this Federal legislation go through—because it does give total access. At least you can have Federal people there together, whereas we now have to send people in. Any kind of a stoppage throws your whole timetable off. You just can't sit and wait and try to bargain with a local jurisdiction to try to get your information, or convince them that you have a case, and that it is an important one.

Mr. MANN. Thank you very much. Thank you, gentlemen.

We will now hear from Mr. David Keene Leavitt.

Mr. Leavitt, we are pleased to have you here this morning.

Mr. LEAVITT. Thank you, Mr. Chairman.

Mr. MANN. I must advise you, though, that since you are not a scheduled witness there may be some time constraints. We will accept for the record, without objection, your paper, "Smoke Without Fire: The New Attack on Independent Adoptions," dated January 10, 1977, which I am sure will be very helpful to us.

[The statement referred to follows:]

SMOKE WITHOUT FIRE: THE NEW ATTACK ON INDEPENDENT ADOPTIONS

(By David Keene Leavitt)[1]

Only the adoption agencies are unhappy with independent adoptions in California.

During the past 25 years, over 80% of the newborn infants adopted in California have been placed independently, usually with the assistance of doctors and lawyers. Since the adoption agencies cannot attract the cases voluntarily, they again seek to do so by legislative action.

For the fourth time in the past 16 years, the adoption agencies and their allies in the State Department of Health are trying to establish an agency monopoly.

[1] David Keene Leavitt is an attorney who has specialized in independent adoption matters for the past 17 years. He is a graduate of Stanford Law School and has been a member of the Adoption Committees of the State Bar, the Los Angeles County Bar Association, the Beverly Hills Bar Association, and the American Academy of Pediatrics. He is the author of "The California Lawyer's Role in Independent Adoptions."

As in the past, the Department urges legislation in the guise of stopping an alleged "black market". Its actual effect would be to eject doctors and lawyers from the adoption field and force natural parents into adoption agencies. Most independent adoptions would disappear.

Independent adoptions are unworkable unless natural parents have access to professional assistance in finding and selecting qualified adopting parents who meet with their approval and with whom they can personally place the child. Legislation curtailing such assistance would effectively stifle independent adoptions without the necessity of formally outlawing them. There is no baby black market in California and the Department of Health knows it.

Except for one attorney convicted of adoption law violations, disbarred and sentenced to jail, improper adoption activities by California doctors and lawyers have been virtually non-existent.

The Department claims to have received 250 complaints of "irregular placements". These complaints emanated entirely from adoption agency social workers, not from natural parents, adopting parents, the courts, or (for that matter) the Los Angeles County Department of Adoptions, which is the largest adoption agency in the world.

No complaint of misconduct by doctors or lawyers has ever been referred by the Department to the State Bar or the State Board of Medical Quality Assurance for professional discipline.

Only one lawyer and no doctors have been prosecuted for conduct even remotely connected with adoptions in the past 15 years.

Recently, a major wire service assigned two reporters on a full-time basis for three months to unearth the alleged baby black market in California. These reporters found nothing but a single doctor in Sacramento who allegedly nagged an expectant mother to place her child with personal friends of his—which she did, even after complaining about his conduct to Sacramento County adoption authorities.[2] Even in this case, no suggestion was made that the adopting home was unsuitable, that the baby was "marketed", that anyone was unconcerned with the child's welfare, or that unreasonable amounts of money were involved.

Because the adoption agencies, and the Child Welfare League to which they belong, constantly accuse them of "black marketing", attorneys and physicians in California have, if anything, been extra cautious and particularly attentive to high ethical standards.

For years, the Department of Health has considered any placement involving an intermediary to be "irregular". The Department prepares an "Irregular Placement Report" for its files whenever an intermediary is involved regardless of the suitability of the adopting home, compliance with the law, ethical conduct by the intermediary, and responsible participation of the natural parent.

The courts and legislative committees have held repeatedly that a natural parent is entitled to the assistance of counsel or others in arranging for the placement of a child.

Inflammatory rhetoric alleging professional misconduct in California has been totally unsupported by evidence.

The adoption agencies simply cannot grasp why 80% of California's expectant mothers contemplating adoption choose the independent procedure. Because the agencies are dogmatically convinced that they provide the only virtuous and legitimate way of adoption, they ascribe the most base and venal motives to those who avoid, reject or compete with them.

In the jargon of the adoption agencies, even the most reasonable professional fees become "profits".

If adopting parents contribute reasonably to a natural mother's support (as specifically permitted by the Penal Code § 273), she is "selling the baby". (For some reason, a girl who receives even more money through welfare payments arranged by an adoption agency at the expense of the taxpayers is not guilty of this.)

If a single lawyer handles the entire adoption with no friction between the parties, he is nevertheless guilty of a "conflict of interest". If the adopting parents provide independent counsel to represent the mother, the lawyers are "piling on the fees."

The adoption agencies proclaim that doctors and lawyers "don't care about

[2] Interesting questions: Why, after consulting an adoption agency, did she not relinquish her child to that agency? If the doctor was so obnoxious, why did she place her child with his friends anyway? Why didn't she change doctors?

the baby" and will "sell to the highest bidder". At the same time, they admit that 95% of the families are fine".[3]

The Department charges that intermediaries may apply undue influence on natural parents in consenting to adoption—although no specific case is mentioned. The Department ignores § 226.1 of the Civil Code, which requires the Department itself to witness every natural parent's consent to adoption and certify to the court that it was freely and voluntarily given.

The Department alleges that children are adopted into unsuitable homes, but fails to mention that every placement must be investigated by its own agents. Virtually none of the adoptive homes fail to qualify. The Department disapproves less than one-half of one percent as unsuitable.

There is no evidence to suggest that private placements are in any way inferior to those made by adoption agencies.

The Department claims that the courts may grant an adoption even if its recommendation is negative "because a year or more has passed since the child's placement". However, § 227.6 of the Civil Code, enacted 13 years ago, requires the Department itself to make an immediate report to the court when the investigation establishes "a serious question concerning the suitability of the petitioners or the care provided for the child." The only possible excuse for the child's remaining in an unsuitable adoptive home for an excessive period is the Department's own neglect of its legal duty to act promptly.

In a recent press release, the Department cited two "horrible examples": A mother exchanging her baby for a used car, and a childless couple "allegedly paying $50,000 for a baby 'made to order' ". No doctor, lawyer, or other intermediary was involved in the first example. The Department is well aware that the "$50,000 case" never happened. In any event, both of these examples would be clear violations of the present criminal law.

Permissible adoption expense is defined in § 273 of the Penal Code. All must be reported to the court under oath by the Petitioners.

California judges hearing adoptions have uniformly failed to observe any pattern of unsuitable homes, unethical conduct, or fee abuse in independent adoptions.

Because most natural parents prefer to place their children personally and private adoption procedures are easily available, California has three times as many adoptions as any other state.[4]

In Connecticut, for example, independent adoptions were eliminated. The following year, there were only half as many adoptions in Connecticut. The total number of adoptions plummeted from 1100 per year to 126 (in a year when California had 5647 adoptions).

New York, Illinois, New Jersey and Massachusetts do not permit doctors or lawyers to assist in private placement. Those states have less than one-third as many adoptions as California.

Most expectant mothers will avoid adoption completely rather than give the baby to an adoption agency and know nothing of its fate. Eighty percent of the expectant mothers consulting adoption agencies in the United States reject agency placements altogether.[5]

In California, agency adoption of a newborn infant is rare, even though the adoption agencies advertise their services widely and persistently. Civil Code § 224p has for more than 25 years forbidden anyone other than a licensed adoption agency from advertising for children to adopt or place.

The Department's proposals would send any doctor or lawyer to jail who even keeps a list of couples wishing to adopt a child. Nowhere else in the free world is the keeping of a list a criminal offense. Such a prohibition cannot possibly improve the quality of adoption placements or reduce unethical conduct. It can be justified only as a maneuver to drive doctors and lawyers out of the field.

The Department proposes pre-placement studies: Investigation and clearance of adopting parents by the Department before a child may enter their home.

There can be no objection to this in theory. In fact, the quality of adoption placements will not be particularly improved. Under present procedures, less than one home in two hundred is rejected by the Department. Even adoption agencies—where pre-placement studies are the rule—claim no less a proportion of unsatisfactory placements.

[3] Joseph H. Reid, Executive Director, Child Welfare League of America, testifying before the United States Senate Sub-Committee on Children and Youth, April 28, 1975.
[4] See chart attached as Appendix A.
[5] Testimony of Joseph H. Reid, same time and place.

There is absolutely no evidence that a single child has ever been harmed in an adoptive home because of delays in the existing investigatory procedure.

The question is whether a program of pre-placement studies is truly designed to improve the quality of adoptions or is merely a mechanism to make independent placements more difficult.

For example, a procedure which would permit any adoptive couple to be investigated at any time—whether or not they had a specific child in mind—would create a larger case load for the Department (since some couples would be studied but would not ultimately adopt), but would not impair private placements.

The Department in the past has insisted that adoptive parents be studied only after they had found a particular child. This creates serious problems.

For example, the arrangement for an independent adoption is often made during the last month of pregnancy. If the Department is given 60 days within which to perform its investigation, many infants will be forced to spend weeks or months in foster care. (Almost all of this foster care will be unnecessary because 190 out of 200 adoptive families are ultimately approved.)

Foster care must, of course, increase the expense of the adoption, even if private foster homes were readily available—which they are not.

In addition, foster care is anathema to most natural mothers. Many would reject adoption altogether rather than see the baby in a foster home.

The problem is longer and costlier when the natural mother, as is often the case, makes her final decision for adoption only after the child is born.

Of course, a certificate of approval resulting from unrestricted pre-placement investigation could be valid for a limited period and updated or reviewed as necessary. Likewise, a reasonable fee might be charged by the Department for its services.

In some jurisdictions, private licensed social workers or psychological counselors are permitted by law to perform the pre-placement investigation.

The Department and the adoption agencies have in the past opposed unrestricted pre-placement investigations. They fear losing even more adoptions if doctors and lawyers have an available pool of already-investigated, state-certified, "blue ribbon" adoptive couples from whom a natural mother may choose.

The actual benefit to infants must be balanced against the cost and administrative burden created by a pre-placement program.

Neither the Department of Health nor the adoption agencies have ever sought to make private placements better. Their attitude is best summed up in the words of Lucille Kennedy, former chief of the Department's Bureau of Adoptions:

"We are not interested in improving independent adoptions · we are interested in eliminating them."

Ideology is not substitute for fact. And the fact is that California's adoption system is reasonable, well regulated, and adheres to high standards of child welfare and ethical conduct.

APPENDIX A

RATIO OF ADOPTIONS TO POPULATION IN 1973

State	Population (per 1970 census)	Total adoptions (all races)[1]	Adoptions per 100,000 population
1. Independent adoptions encouraged:			
Iowa	2,825,000	1,279	45.2
Utah	1,059,000	478	45.1
North Dakota	617,000	262	42.5
Montana	694,000	206	29.7
California	19,715,000	5,647	28.6
Indiana	5,143,000	1,260	24.5
Oregon	2,091,000	420	20.1
2. Independent adoptions prohibited by law:			
Delaware	548,000	25	4.5
Connecticut	3,032,000	126	4.2
3. Independent adoptions (or intermediaries) discouraged by law:			
New York	18,018,000	1,980	11.0
New Jersey	7,093,000	727	10.2
Pennsylvania	11,799,000	1,203	10.2
Massachusetts	5,630,000	569	10.1
Illinois	10,977,000	843	7.7
Colorado	2,207,000	95	4.3

[1] Opportunity, a Division of the Boys and Girls Aid Society of Oregon: "National Survey of Black Children Adopted in 1973" (Dec. 2, 1974). The Opportunity study presents the only State-by-State tabulation of total adoptions published in the United States during the past 10 years.

TESTIMONY OF DAVID KEENE LEAVITT, ESQ., BEVERLY HILLS, CALIF.

Mr. MANN. Suppose you make about a 10-minute jury argument here——

Mr. LEAVITT. Thank you, Mr. Chairman.

Mr. MANN [continuing]. And that will take care of us.

Mr. LEAVITT. One thing—I found out about these hearings, I guess, like everybody else did, just the end of last week. I didn't even know if they were morning or afternoon when I walked in.

I have heard more misstatements of the California adoption law this morning than I have heard in a similar period of time in 20 years.

I have specialized in independent adoptions in California for 20 years. I have handled about 1,000 of them. I would say that about 25 to 30 percent of them have involved other States. The majority of them have been entirely intrastate.

I am proud of my reputation and I have not been subject to criticism, as far as I know, for any kind of impropriety—either as to the fees that I charge or as to the practices I follow.

However, there are one or two things that I want to talk to this committee about and they pertain to the field of unspoken assumptions. And of course they kind of rile me, and I don't want my voice to get riled because I know that it is not persuasive that way, but when I sit back in that room and watch these social workers talk as if agency adoptions were God's way and independent adoptions were the Devil's way, it does irritate me.

I have never yet heard a social worker talk about a natural mother who went independent after consulting an agency, but that she was approached, as if there is something wrong in approaching someone. And there isn't. There is nothing unethical or improper, providing you are not soliciting business.

But an interesting thing that I heard this morning was that a girl was approached by her own doctor. Now, how in the world are you approached by your own doctor?

Now, what really happens—in plain, straight-forward English—is this: Most natural parents in California, expectant mothers, place their children privately. Eighty percent of the newborn, healthy babies placed for adoption in California are placed privately, through the doctors and the lawyers.

This is notwithstanding the fact that for the past 30 years, only adoption agencies have been permitted to advertise their services in California and every single day in the Los Angeles Times for as long as I can remember, there are advertisements from the various adoption agencies, saying, "Please come and get our services."

The fact is that most natural parents who place babies for adoption are middle-class girls from nice families. They are not social welfare cases. They are not mentally disturbed. They are not the defeated or disgraced. They are ordinary people—your daughter, your best friend's daughter, my daughter, my next door neighbor's daughter.

They do not go to social welfare agencies, nor do their parents, nor do the people they associate with. When they have a problem, they

go to a private doctor, a private lawyer, a private psychologist or psychiatrist.

Now, most natural parents and most adoptive parents in this State, because of the campaign by the adoption agencies which has lasted for the last 30 years, have been sort of convinced that the private adoption procedure is suspect, that it is illegitimate by its very nature. It is only when a girl goes to her private doctor and mentions adoption that the doctor says, "Well, you know, I know of some people who want to adopt a baby. Why don't you consider them?"

Now, the thing is, I have sent perhaps—I haven't sent—but I would say that at least 20 percent of the natural parents who come to see me one way or another, have been to a licensed adoption agency and have discussed their procedures with the workers. Invariably, they prefer the private procedures.

Now, the agencies think that is because they are selling their babies, because nobody in their right mind can go the Devil's way, instead of God's way. That isn't what is going on at all.

The kind of girls who place babies at birth are ordinarily the nice girls. They want it handled privately, expeditiously, and they want to know what they are doing. Now, the advantage of a private adoption in California over an agency adoption to the natural mother—now, understand that it is the natural mother who makes the choice of the procedure, not the social workers, not the adopting parents even.

If she doesn't choose the independent adoption procedure, there just isn't going to be an independent adoption. There will be an agency adoption, if she chooses that procedure.

But, as Mr. Reed told the Senate 2 years ago—and that is in my presentation—80 percent of the natural mothers who do come to adoption agencies reject them. They either keep the baby or disappear. But they do not place babies with adoption agencies.

This is contrasted with my experience, where 96 to 98 percent of the natural mothers who come to see me about possibly placing their child, actually go ahead and do it. And I never even discuss with natural mothers whether they should or shouldn't place the child. Most of them are not interested in my opinions as to whether they should or shouldn't.

They come into my office and they know what they want to do. My job is to help them do it in a proper, good, lawful, ethical way. And that is what I do.

Now, the reason that natural parents want to go through a private procedure in California is twofold. No. 1, California law for the past 30 years, section 224(q) of our civil code, has required that only a licensed adoption agency or a child's own parent can place a child for adoption.

What this means is that if you don't give your baby to an agency, then under our law, it is up to you—the parent—to consider the facts about a particular couple and you make the selection of those people. Under California adoption law, there is no anonymity.

Now, this scares the living daylights out of people from the east coast, but for 31 years, 80 percent of our newborn adoptions are where the girl who places the child knows precisely who has it and where they live, because State law requires that in order to get that child

out of the hospital, the mother must be presented with a form prescribed by the State department of health on which the name and address of the adopting parents appears. The law requires that she be offered a copy of that form to take home with her.

So, there is no secrecy. And a natural mother who—if you postulate that she is some sort of a nut or a guttersnipe or that she should be treated as some dangerous beast who doesn't care about her baby, obviously this doesn't make sense.

But if you have seen as many natural mothers as I have and you realize that these are the nice girls—the girls you and I would meet in our daily lives—of course she cares where her baby goes. She is not about to turn her baby over to some corporation, even with a license, run by some social worker she didn't choose and probably to whom she didn't relate and who is treating her like she is some sort of a social disease.

The duty of that social worker is to see that she doesn't get pregnant again, as if she didn't have sense enough to realize what a disaster this pregnancy has brought to her. She isn't going to be talked down at and looked down on by some social worker when she doesn't have to and then be asked to give her baby to this agency to dispose of and she doesn't know where in the world it goes.

I wouldn't have given—my dog had puppies a few years ago. I wouldn't give one of those puppies to anyone I didn't know. And certainly to ask a human being to place a child that way is unrealistic.

The agencies, for their ideological purposes, just don't seem to see this simple bit of sense. Now, the other thing that girls object to is foster care. Doctors and lawyers do not have to convince girls that foster care is bad for babies, like one of our witnesses said. Most mothers will absolutely refuse to have anything to do with the procedure where their baby has to have foster care.

That is another great attraction of the private adoption process. But it's more complicated than that, because the other basic difference is that there are sometimes legal complications in adoptions. And by the way, I would say to you that the adoption agency people who have appeared here today and the workers in general, are woefully ignorant of the rules of law pertaining to the adoption of children.

Such things as the rights of unwed fathers and so forth—they honestly, in most cases, misunderstand them, or don't know them. But, the tragedy is that when a girl relinquishes her child to a licensed adoption agency, the agency holds that child in foster care cold storage until all legal loopholes are worked out.

This is not just a question of a week or two of foster care while they wait for the girl to sign relinquishment papers. This is a matter of—if they have trouble tracking down some natural father who has disappeared, the agency erroneously thinks he has to consent to the adoption, whereas actually under California law, in most of those cases he doesn't have to consent.

But the agency won't place the child in a permanent home in the beginning. They hold the baby in this foster home for months and months, while they unravel all the legal strings. One of the advantages of the independent adoption is that if you have an advised legal opinion that the strings will eventually unravel, then it is safe to give the baby into his permanent home now. He is with his new mother and

father while all the legal procedures are taken care of, and legal technicalities are taken care of.

These are overwhelming advantages. I submit that if your daughter, God forbid, should have this problem, I think that you would favor this procedure.

Now, there has been a lot of talk about courts being reluctant to remove children. This is balderdash. This is balderdash for one simple reason in California. We have in California a comprehensive scheme for the investigation of independent adoptions. Not only is every adoption required to be investigated by the State department of health, but section 226.5 of our code says that all of the parties to an adoption must be interviewed as soon as possible, but in no event, more than 45 days after the filing of the petition for adoption.

Now, I have been pushing in the legislature this very moment a bill designed to give attorneys the power to drag the department of health into court when it fails to meet that deadline for interviewing. And I am getting no end of resistance from the adoption agencies.

Now, there are only three possibilities: Either there really aren't all these bad cases, which is why they take their time in investigating them, or there are a lot of bad cases and they don't care—well, I don't think that's true—or they are fabricating a lot of this. They have a few horrible examples they keep dredging up to these committees all the time.

I submit that we disbar several lawyers every year for ambulance chasing, but of all the arguments that we have heard in connection with the no-fault debate, nobody has ever suggested that we should abolish the system—the present personal injury system—because of ambulance chasing. That's a side issue. You disbar these guys.

And I think that you should also know that never in the history of the California State Bar, has the State department of health made a complaint to the State bar about the activity of an attorney in connection with adoption. Not only that, but at my instigation last year, the adoption committee of the State bar—of which both Mr. Koppes and I are members—called upon the president of the State Bar of California to issue a public appeal for persons with knowledge of misconduct in the adoption field to come forward to the State bar and let them know about it. Nobody came forward.

We have heard that adoption law violations in the State are only a misdemeanor. Well, our attorneys—our district attorneys and city attorneys—prosecute misdemeanors all the time, but nobody has ever come forward to prosecute a placement law misdemeanor.

Believe me, as an attorney at law, I don't like misdemeanors. If anyone ever charged me with a violation of the law, misdemeanor or felony, I would be very upset. And if they took me to the State bar I would be upset. But they don't.

Now, one thing that I would also add—I have so much to cover in 10 minutes. I am sorry I am going so fast.

I was instrumental in Mr. Silverton's prosecution, as I am sure Bob Emory will tell you. I was instrumental in getting that $11,000 sale out in Indio brought to the attention of the district attorney, because it came to my attention first. I provided two natural mothers as witnesses to give testimony to what Mr. Silverton offered them.

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I consider the *Silverton* case a triumph of California justice because this is the first baby seller we have had in this State for about 20 years and by God, after he only got three cases out, they nailed him. Now, that, to me, is a plus, not a minus.

To hear all this fancy talk about his schemes that he hatched in prison is irrelevant. The guy's a nut. Everybody who knows him knows the man is crazy and when you hear the things he was hatching up, it's obvious he was crazy. And there isn't a State in the United States or a country in the world that doesn't hatch an occasional nut like Mr. Silverton.

But the fact is that after only three completed cases, they nailed him. And I do know that every single one of those adoptive families who did buy the babies from Mr. Silverton were investigated in their home States, were approved, and were perfectly lovely people. And the baby has a perfectly marvelous home.

As Mr. Reed said before the U.S. Senate, in the testimony also quoted in my presentation, the question of these baby sale abuses is not that they are going to bad homes. Mr. Reed said that 90 percent of the homes are fine. The problem is that there is a handful of people in this country, most of them in New York—and when I say "a handful," I'm talking about four or five different people, maybe three or four in Miami—that's all there are that are involved in this whole thing that you are talking about.

The overwhelming majority of these independent, interstate placements are perfectly legitimate. The fees are totally reasonable. I have no objection whatever to anything that requires a complete disclosure of all finances to a proper tribunal, the court, or whoever this committee might feel would be proper.

But I want to make sure that we don't have a bill that says that you cannot handle an interstate adoption simply because it is independent. And the agencies are given a further boost up—you will see some tables in my presentation which show the effect of agency adoption monopoly in various States. What is happening is that it knocks the whole number of adoptions into a cocked hat.

The agencies think that if they can knock out the doctors and lawyers, they will somehow get all these adoptions. But they don't. The statistics show that the minute you knock out the independent adoptions, the total number of adoption placements in the State goes down, usually to about a third, or less.

Connecticut went from 1,100 adoptions the last year of private placements to 123 in 1973, while California remained about the same. Of course, California went way up in the sixties and then went down again. But nevertheless, between 1961 and 1973, the number of adoptions were about the same.

One other thing about preplacement studies. I notice that Mr. Mann and Mr. Hyde were interested in whether these people were ever checked before they get the baby. There have been proposals in the California Legislature for 20 years about preplacement studies.

I supported such proposals in 1961—how long ago was that, 17 years? But the tug of war over preplacement studies is very simple. It is a power grab between the agencies and the doctors and the lawyers, because the doctors and lawyers represented by myself, say, "Of course, investigate these couples."

And you ought to know, gentlemen, that not 1 couple—only 1 couple in 200 that files an independent adoption petition in California is disapproved by the State investigator as unsuitable. So, we are talking about less than 1 percent of the cases being unsuitable.

But even back in 1961, I was in favor of a preplacement study. But the catch to the whole thing was this: I insisted—and the legislature went along with me—that if there was going to be a preplacement study, it had to be freely available to whoever wanted to adopt. That is, if you and your wife want to adopt, you go to your lawyer and he says, "OK, go to the State, get investigated, and then come back when you have your certificate of approval."

And then, if a baby comes up—if a mother comes up with a baby that she wants to place, they have been approved and that's fine.

The adoption agencies fight this tooth and nail. They say it gives the adopting parents a hunting license and it puts the lawyers on the same plane as the adoption agencies, because I can say to a natural mother, "Gee, I have a whole bunch of approved couples here, just like the agency does." Then the agencies would lose even more cases.

Right now they only have 20 percent of the newborn babies in California and I guess they are afraid of getting even fewer. What the agencies want is a procedure tied to this preplacement study, which would make it virtually impossible to complete the placement without foster care.

In othr words, most natural parents who come to place a child—and as I say, I do between 50 and 100 adoptions a year. Most of the girls that I see who want to place a child have come to me in their last month of pregnancy. If you give the investigator 60 days, 90 days, to do that preplacement study, that baby gets born about 3 weeks later. So, what happens during the 2 months that the investigator has to finish his study?

Oh, says the law, "We put it in foster care." Well, that's the one thing that the natural mother wants to avoid with all her heart and soul. Plus, in California—I don't know what it is like in your States, gentlemen, but in California—we don't have any private foster homes. I know of only one in all of southern California that is licensed to take care of a newborn baby.

So, where are you going to get them? And who is going to pay for it? The adopting parent is going to pay $400 a month for some private foster care for almost all the babies that are placed privately when you and I know that only 1 out of 200 couples is going to be ultimately disapproved?

Now, one other thing and I am going to close. I know that you have a lot of people to hear.

You have been hearing probably that the investigation of an independent adoption is less deep than an agency adoption. Maybe it is. I'm not sure that it is all that shallow. But, California statutes provide that it is the State department of health that is to investigate the adoption. There is nothing in our statute which says what the speed, the depth, the scope, the procedure followed by the State department of health has to be.

They can investigate as quickly, as deeply, as intensively as they want. The scope of those investigations I must assume are dictated,

if dictated, by what they consider in their conscience to be the necessities of the actual facts.

If their investigations are shallow, if they are tardy, if they are not adequate, you can't lay that to the door of limited budget and no staff. There isn't a legislature in this entire country that will not give the last dollar for the protection of children. So, all that they have to do is ask for the money. On that subject, they would get it from any legislature in the land.

I would remind you that all of the money in a California adoption is disclosed to the court under oath. I do have, by the way, a selection of California adoption statutes which I carry with me all the time. I would be glad to make a copy of it and send it to your committee.

If you have any questions, gentlemen, I really am prepared to answer to virtually anything you have heard today, but time makes me stop now.

Mr. MANN. Mr. Hyde?

Mr. HYDE. Thank you.

First of all, Mr. Leavitt, in my judgment, you misconstrue completely the purposes of these hearings. We are not interested—just a minute—we are not interested in a tug of war between independent adoptions and agency adoptions whatsoever.

We are interested in profit. We are interested in lawyers and doctors who aren't lawyering and doctoring, but selling infants. That's what our interest is, interstate and international. We couldn't care less about the tug of war between the independent and agency adoptions.

Who refers all these pregnant women to you? How do you happen to get all these pregnant women?

Mr. LEAVITT. Most of these pregnant women are referred not to me, but to clients of mine who wish to adopt, who have made their desires known to various obstetricians around the State. Not any specific group of obstetricians but——

Mr. HYDE. In other words, doctors send the pregnant women to you?

Mr. LEAVITT. No.

Mr. HYDE. You have doctors who send them into you?

Mr. LEAVITT. No. I would say three-quarters of the cases I handle result because people who want to adopt consult me and among—after explaining how the procedure works, I say:

Now look. Most adoptive placements—two-thirds of all the private placements—in California originate because a girl walks into a private doctor's office, says she is pregnant and says she wants the baby adopted. In most cases, the doctor knows somebody who wants to adopt and says, "Gee, I know someone who wants to adopt".

Mr. HYDE. And that—but how do these prospective adopting parents find out about you?

Mr. LEAVITT. It's very hard sometimes. By word of mouth. I've been in this field for 20 years and one adoptive couple refers another, or they——

Mr. HYDE. Word of mouth?

Mr. LEAVITT. Yes.

Mr. HYDE. It's word of mouth entirely?

Mr. LEAVITT. Yes.

Mr. HYDE. I see. Doctors are not soliciting for you, then?

Mr. LEAVITT. Oh God, no. I don't need anybody soliciting for me.

Mr. HYDE. Well, I commend you for having that sort of referral service. I think that is great.

Do they have GAL's out here in every adoption? Guardians ad litem?

Mr. HYDE. What is the average attorney's fee for an uncomplicated adoption?

Mr. LEAVITT. My fee is $950 for basically handling an independent adoption. And that is my fee whether a girl walks into me, who wants to place a child and has no particular couple in mind and I call the couple to tell them about the child, or whether the couple finds the child themselves in California, out of California, in the United States, out of the United States. I charge a flat fee.

In addition to that fee, if we have unwed father problems—that is, if we have to bring judicial proceedings to terminate paternal rights—then I charge an additional $350 for those judicial proceedings under section 7017 of our civil code.

Likewise, if we have to comply with the interstate compact on the placement of children, I charge $250 to comply with the compact.

By the way, the compact has been kind of—not pooh-poohed—there has been good support for the compact. The compact has solved most of our problems. Almost all of the baby-selling cases that you are hearing about took place before California joined the compact, or any of these others.

And the compact does cover 39 States and the only major adopting State that is not yet a member of the compact is New Jersey. Now, when New Jersey gets in, there is not going to be a single State left where there is an substantial number of interstate adoptions that does not belong.

California law—I will call your attention to—requires that all interstate placements must, under the compact, comply with our placement law and our baby-selling law. Now, section 273 of the Penal Code——

Mr. HYDE. Can I get back to something?

Mr. LEAVITT [continuing]. Is something that you should be aware of.

Mr. HYDE. I understand. But we are far afield from what I want to know.

Mr. LEAVITT. All right. Sorry.

Mr. HYDE. That's all right. Now, you say that adopting parents hear of you and they want to adopt a baby——

Mr. LEAVITT. Right.

Mr. HYDE [continuing]. And so they will come to you and ask you if you have a baby?

Mr. LEAVITT. No; they don't. They come to me and say, "Help us adopt a baby."

Mr. HYDE. They say, "Help us find a baby to adopt"?

Mr. LEAVITT. Right.

Mr. HYDE. And you do that service?

Mr. LEAVITT. I do that service.

Mr. HYDE. Is that a lawyer's service, to find children to adopt? Is that legal, what you are doing?

Mr. LEAVITT. I don't find children to adopt in the sense of going out and looking for them.

Mr. HYDE. How do you locate them, then?

Mr. LEAVITT. I tell the adopting parents where babies are ordinarily to be found.

Mr. HYDE. Such as—where do you tell——

Mr. LEAVITT. Obstetrical offices.

Mr. HYDE. You send them to——

Mr LEAVITT. I tell them——

Mr. HYDE. Do you give them a list or do you send them to one or what do you do?

Mr. LEAVITT. No. I tell them to find through their friends—I do not give them a list. That would mean every obstetrician in the State would be on file and bombarded with requests and the obstetrician would ignore all requests.

What I tell them to do is to make up a résumé of themselves and find out through their friends and through their own family physicians and others the names of obstetricians near them or who are treating friends of theirs who might occasionally come up with an adoption case and give this doctor a résumé and let that doctor know that they are interested in adopting a child.

Mr. HYDE. So therefore, you put the doctor in the place of finding the parents? Somebody is brokering here and you——

Mr. LEAVITT. No.

Mr. HYDE [continuing]. Are not doing a thing—you hand it to the doctors.

Mr. LEAVITT. No. Brokering suggests a compensation for a service.

Mr. HYDE. It is all free?

Mr. LEAVITT. This has nothing to do——

Mr. HYDE. It is all gratis on your part and the doctor's part?

Mr. LEAVITT. No. What I am saying is this. I know that the basic origin of two-thirds of the private placements in California as set forth in a statistical survey by the State department of finance in 1974—two-thirds of all private placements originate because the physician knows a couple who want to adopt and when a girl walks in, he mentions them.

It is that simple. It is not a brokerage. The average physician doesn't see one of these cases more than every 1½ or 2 years. But, my feeling is for my clients that if he is going to see one, it sure doesn't hurt for him to know something about you.

Mr. HYDE. Have you drawn on the same obstetricians repeatedly? On several cases?

Mr. LEAVITT. Oh, no. Well, sometimes—for example, there is one medical group down in Torrence that had three in a row over a period of a couple of months. But I have not had any cases from that medical group now in over 1 year. It's very much at random, the way these cases——

Mr. HYDE. OK. Now, you said that 80 percent of the adoptions—I take it you are talking about in the State of California?

Mr. LEAVITT. Newborn, healthy infant adoptions.

Mr. HYDE. Right. Eighty percent of those cases are placed by the doctor and the lawyers. Is that right?

Mr. LEAVITT. Right. Privately in the State.

Mr. HYDE. Don't you think it would be a good idea to let the doctors practice medicine and the lawyers practice law and let the social workers practice social work?

Mr. LEAVITT. I do not.

Mr. HYDE. You do not?

Mr. LEAVITT. I do not.

Mr. HYDE. What part of that——

Mr. LEAVITT. I do not agree.

Mr. HYDE. What part do you disagree about? Just the social workers——

Mr. LEAVITT. I do not concede the idea that child placement or adoption is somehow outside the competency of lawyers and doctors anymore than being a legislator is outside the competency of lawyers.

There are certain things which lawyers have traditionally done in this country and which doctors traditionally have done, including family counseling, business advice—we didn't get any training in law school about how to advise a businessman, but we do it every day.

Likewise, if a lawyer chooses to pursue the field of child custody and child welfare, I submit he is every bit as competent and every bit as qualified as any social worker who had an extra year of college and most of the social workers in this country didn't even have that.

Mr. HYDE. Surely you wouldn't have a proctologist diagnose a psychiatric problem, would you?

Mr. LEAVITT. I certainly would not.

Mr. HYDE. Well, how many lawyers are trained——

Mr. LEAVITT. But I would, as an attorney——

Mr. HYDE [continuing]. To evaluate emotionally disturbed people, are trained to spot the disintegrating marriage? How quickly can you do that? How many interviews must you have with people? Under how many circumstances must you see people in the home, at play, at work? I mean, really?

I have practiced law for 25 years and I wouldn't presume to evaluate a stable marriage without spending an awful lot of time with people under many different circumstances.

Mr. LEAVITT. Well, I would put it this way. I have handled 1,000 adoptions in 20 years and I have never had a couple disapproved by any social welfare investigator. I have never had a couple turned down by a court. So, I must be doing something right.

My feeling is that the lawyer is as capable of developing his skill in the field of child placement as corporate finance. God knows that is much more complicated than child placement.

Mr. HYDE. The lawyer is as competent in his skill, did you say?

Mr. LEAVITT. In developing his skill in the evaluation of family situations. How many times have people come to a lawyer with a marriage that is about to break up and they look to the lawyer to patch it back up and sometimes he does.

Mr. HYDE. Do you go out visit the home of all of your clients?

Mr. LEAVITT. I don't.

Mr. HYDE. You don't, OK.

Mr. LEAVITT. I do——

Mr. HYDE. Let me ask you this. Is the State department of health overworked and understaffed, or have they got plenty of people to do these indepth investigations throughout California?

Mr. LEAVITT. I don't know about the State department of health, because——

Mr. HYDE. All right.

Mr. LEAVITT [continuing]. They do not take care of adoptions in my county. I am down in Los Angeles County and down there we have the Los Angeles County Department of Adoptions. The Los Angeles County Department of Adoptions is not ideologically committed to the extinction of private placements in the State of California, as the State department of health is.

Mr. HYDE. And is that because——

Mr. LEAVITT. And they do have plenty of personnel and they meet their deadlines and they do their jobs.

Mr. HYDE. Do you see any flaw in a process whereby the highest bidder gets the baby, rather than the deserving family, provided that——

Mr. LEAVITT. I would say that this business of selling to the highest bidder may exist in the case of a maniac like Silverton, or perhaps some of the people—you know, I have been reading the newspaper exposes of the black market for 20-odd years, Mr. Congressman. The same handful of names keep bobbing up—Silverton, Spencer——

Mr. HYDE. Have you ever heard of Seymour Kurtz of Chicago?

Mr. LEAVITT. I've never heard of Seymour Kurtz from Chicago, but we get Spencer, we get Pavsner, we get Trucian down in Miami. There are five or six of them. It is always the same names. Except for these guys, I don't know if they sell to the highest bidder.

Mr. HYDE. There has been a shortage of babies——

Mr. LEAVITT. Of course, I know there is.

Mr. HYDE [continuing]. And therefore, the baby has become a hot commodity, in terms of there being a market for them. Have you noticed that in your practice?

Mr. LEAVITT. I don't think in terms of markets and hot commodities.

Mr. HYDE. But have you had people who have come to you and offered you big money to get them a child?

Mr. LEAVITT. I would say once a year somebody tells me—somebody suggests that if I could help them a little faster, you know, money is no object. And I tell them that my fee is my fee and I don't really care.

Mr. HYDE. You would turn that down?

Mr. LEAVITT. Well, of course, I would turn it down.

Mr. HYDE. Let me ask you this question. What do you think of this statement by a district court, by the Superior Court of the District of Columbia, in the case of *District of Columbia* v. *Edward Gallison*. The court says:

> Appellate decisions in this jurisdiction clearly state the purpose and scope of the statue under construction. The purpose is: to protect the children from irresponsible or untrained intermediaries. The lawyer is within his right, so long, as he gives only legal advice, appears in court, and refrains from serving as an intermediary or go-between.

I take it that your practice violates this——

Mr. LEAVITT. Absolutely. But, let's go back——

Mr. HYDE. OK.

Mr. LEAVITT [continuing]. To what that court is talking about. That court is talking about a District of Columbia statute which for 25

years has made it a crime in the District of Columbia for anyone to accept compensation in connection with the placement of a child. In other words, it is perfectly lawful in the State of California—and not only lawful, but traditional—this is the way that adoptions have been handled for 100 years.

Mr. HYDE. To accept compensation for what? Legal services?

Mr. LEAVITT. Any services in connection——

Mr. HYDE. Any services? Brokering?

Mr. LEAVITT. Any services in connection with the placement of a child for adoption in the District of Columbia. It is a prosecutable offense, and I cite the case of *United States* v. *Goodman*, 1960——

Mr. HYDE. But you art telling me that——

Mr. LEAVITT. [continuing]. U.S. Circuit Court of Appeals for the District——

Mr. HYDE. Right. I know. I have read the case. But you are telling me that in California that isn't so.

Mr. LEAVITT. That's right.

Mr. HYDE. And that you, as an attorney, can be compensated for services above and beyond going to court and giving legal advice and drafting the papers. You can be legally compensated for finding a child for a couple of anxious, prospective adopting parents?

Mr. LEAVITT. I may accept compensation for any services that I render to natural or adoptive parents——

Mr. HYDE. In other words, you can make a profit out of an adoption?

Mr. LEAVITT. I resent the use of the word "profit."

Mr. HYDE. What do you call it when——

Mr. LEAVITT. I call it—when I am paid for my time and my expertise in a reasonable amount, that is legal fees. Now, the adoption agencies keep calling anything "profit," but it is not——

Mr. HYDE. You said that compensation can be received for any——

Mr. LEAVITT [continuing] profit.

Mr. HYDE [continuing]. Service and I am trying to distinguish the service from the legal.

Mr. LEAVITT. All right. That is a distinction, again, which adoption agencies have been urging and which I reject. The distinction between the court-connected part of the adoption, the petition, the decree, the certificate that you have to submit, and all of that and the entire process, which involves: No. 1, gathering facts so the adopting parents know what they are doing and the natural parents know what they are doing, explaining the law and the procedure to everybody so they know what is involved and what to expect, giving everybody accurate information and permitting them to get the decision made properly—these are my jobs and this is what I get paid for.

I do not get paid for going out to dredge up a baby for someone.

Mr. HYDE. You don't get paid for that?

Mr. LEAVITT. I do not. My fee is the same, no matter who finds the baby.

Mr. HYDE. You don't do divorce work?

Mr. LEAVITT. None.

Mr. HYDE. None at all?

Mr. LEAVITT. None.

Mr. HYDE. Have you ever been in a divorce court and watched——

Mr. LEAVITT. Sure.

Mr. HYDE [continuing]. The families disintegrating all over the place?

Mr. LEAVITT. Sure, I have.

Mr. HYDE. Have you ever been with the families who have adopted children through your office? You ever visit them after the adoption?

Mr. LEAVITT. Certainly.

Mr. HYDE. Do you charge for that?

Mr. LEAVITT. Of course not.

Mr. HYDE. All right.

Mr. LEAVITT. Never.

Mr. HYDE. All right. Now, you made the statement that 80 percent of the parents, the natural parents, know who the adoptive parents are?

Mr. LEAVITT. No. I said under California law, in an independent adoption, which is 80 percent of the newborns——

Mr. HYDE. Right.

Mr. LEAVITT. [continuing]. There is no anomymity or secrecy. And I might add——

Mr. HYDE. All right. I want to understand that. Does that mean that in 80 percent of the newborn, natural adoptions in California, the natural parent knows who the adopting parents are and where they live?

Mr. LEAVITT. That's right.

Mr. HYDE. I don't have any familiarity with your State, so I have to accept what you say.

Mr. LEAVITT. This is a copy of the form required by law in this State, for discharge of a baby from a hospital, and it will be in the compilation of statutes that I send you.

On the back of this form are the applicable code sections concerning the use of what is called the "health facility infant release report form" which is required in the State whenever a child is discharged from a hospital in the custody of a nonrelative.

All the instructions are on the form.

Mr. HYDE. What about delivering the care and custody of the child to an adoption agency, rather than to the new parents? Doesn't that happen?

Mr. LEAVITT. Oh, yeah. What do you mean? From a hospital?

Mr. HYDE. Yes.

Mr. LEAVITT. Oh, yeah. They fill out the form, too.

Mr. HYDE. Well, how does the natural parent ever learn who the adopting parents are?

Mr. LEAVITT. Because on this form the name and address of the person to whom the child is being discharged must appear at the time she signs it. The hospital must give her a copy of it. That's in the regulations, on the back of the form.

This form is made out, not by the lawyers, but by the hospital. It is sent directly by the department of health to the hospital. The lawyer is ordinarly—neither the lawyer nor the doctor is ever there when the form is presented to the young lady for her signature. Half the doctors don't even know it exists.

Mr. HYDE. You mentioned that we disbar several ambulance chasers every year. Is that correct?

Mr. LEAVITT. Yes. It is a fact out here.

Mr. HYDE. I commend you, because I don't know of any other State where they do a job. How many were disbarred last year in California?

Mr. LEAVITT. I remember two, reading about two. I know every year or so they either prosecute or bar some of these people, or some of these rings that are out chasing ambulances.

I want to make sure that adoptions are clean. And I want to do everything possible to throw out the bathwater, the dirty bathwater. But I don't want to throw out the baby with the bath, because frankly we have three times as many adoptions per capita as any other State in the country and one of the major reasons for it is that a natural parent can place her child privately.

If she is dealing with an ethical doctor and an ethical attorney—which she is doing 99.9 percent of the time—she has got a good adoption and the baby has a good home. It is doublechecked by the State. Everybody is happy, except the adoption agency.

Mr. HYDE. All right. My time is long since gone. I appreciate the indulgence of the chairman.

In your vast and comprehensive adoption practice—your busy adoption practice—do you know of any doctors or any lawyers who are selling children?

Mr. LEAVITT. I know of Silverton.

Mr. HYDE. Who is neither a doctor nor a lawyer.

Mr. LEAVITT. Well, he was a lawyer and a certified public accountant. But Mr. Silverton is I say, a mental case. The mere fact that he hatched his whole scheme in prison——

Mr. HYDE. You don't know——

Mr. LEAVITT [continuing]. Should tell you that.

Mr. HYDE. [continuing]. Of any others?

Mr. LEAVITT. Since 1961, none. And I don't think there have been any.

Mr. HYDE. Do you know of people that are walking around offering $10,000 or $5,000 for a child?

Mr. LEAVITT. All right, look. Let's analyze this. You know, it took me a long time to get my license to practice law. I went all through Stanford Law School and I took the bar examination and I have been building myself a career for a long time, as you men have. I'm sure that guys walk into congressional offices and say, "I'll make a $20,000 contribution to your campaign under the table, if you'll only vote this way or do that." Don't they?

Mr. HYDE. Well——

Mr. LEAVITT. But you don't do it.

Mr. HYDE. No. I haven't——

Mr. LEAVITT. Well, I haven't encountered it either, all that much. You know, we hear about it. But when you are actually on the firing line, it doesn't happen as often as people think it does.

If it did happen—if I took that money—you know, you always have got to figure that that thing may fall apart. Don't ever kid yourself. I have only had 7 adoptions out of 1,000, in 20 years, where the baby has had to be returned from the adopting parents to the natural parents.

That is only seven, but everyone of them is agony, and you never know when one is going to fall apart. So, suppose you did take $10,000 under the table and the darn thing did fall apart because some fellow came in out of left field and married the mother and said, "Darling, I can't have any more kids, get yours back."

Then suddenly the adopting parents go to the prosecutor and say, "Well, I gave him $10,000 under the table." Who in the world knows what is going to happen? You would have to be an idiot.

Plus, if a girl wants to sell a baby for $5,000—it's wrong, it's ridiculous, it's against the law and I want no part of her. But more than that from a practical standpoint, if she wants to sell it for $5,000 today, what's to say that before she signs the consent papers, she's not going to say that she wants another $10,000?

And what are you dealing with? You're dealing with someone who is going to come back to the adopting parents and blackmail them or extort them or do all kinds of god-awful things? Who needs it? Who wants it? Nobody with any sense at all wants any part of that. Lawyers most of all. In California we can be disbarred for charging excessive fees. We can be disbarred for conflict of interest. We can be disbarred for defrauding girls. We can be disbarred for pressuring and all the rest of this stuff.

But no complaints have been filed.

Mr. HYDE. I have no further questions. Thank you.

Mr. LEAVITT. Thank you, gentlemen, for hearing me.

Mr. MANN. Thank you.

The meeting of the Subcommittee of Criminal Justice on H.R. 2826 and related bills is adjourned.

[Whereupon, at 11:05 a.m., the meeting of the subcommittee was adjourned.]

ADDITIONAL MATERIAL

CHILDREN'S HOME SOCIETY OF MINNESOTA,
St. Paul, Minn., March 10, 1978.

Re: H.R. 117.

Hon. HENRY J. HYDE,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HYDE: I have recently had the opportunity to review H.R. 117 relative to the interstate placement of children for permanent care or adoption. I want to compliment you in showing interest relative to getting national legislation which will protect the rights of children, unmarried parents, and adoptive couples by preventing gray and black market adoptive placements.

Although I support the intent of your bill, I am very much concerned about the wording on line 21, page 2, regarding subsection B, which in effect, allows the unmarried parent, adoptive family, a guardian, and even a licensed agency, to solicit and receive monetary value for seeking to place, placing, or arranging to place any children for permanent care or adoption. Even though the matter is clarified on page 3, lines 19 and 20, to be a fair and reasonable amount, it actually would be bad because it makes it possible for the unmarried parent, and others, to legally solicit and receive money for the placement of a child. I would suggest that that entire section be rethought and reworded, with particular emphasis on eliminating the unmarried parent and the person seeking to adopt the child..

The State of Minnesota is one of few states that have laws, prohibiting independent adoptive placements and, thus, I'd be happy to share our experience, if you would like to write or call me.

Sincerely,

ROGER W. TOOGOOD, *ACSW,*
Executive Director.

STATE OF ILLINOIS,
DEPARTMENT OF CHILDREN AND FAMILY SERVICES,
Springfield, Ill., April 20, 1977.

Re: H.R. 2826.

HENRY J. HYDE,
Representative, Sixth District of Illinois,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN HYDE: This Department has reviewed your bill, H.R. 2826, relating to the Interstate Placement of Children for the Purpose of Permanent Care or Adoption. We believe that the intent and thrust of this bill is excellent and it addresses a problem which has for too long gone untended. You are to be complimented for your concern and action.

There are some areas in this bill which we believe could be strengthened and clarified in order that it might be more effective. I am taking the liberty of enclosing a summary of our suggestions/recommendations in the hope that they will be helpful to you.

Again, we appreciate your interest and fine work.

Sincerely,

DONALD H. SCHLOSSER,
Acting Director.

We believe that the regulation of interstate placement of children for permanent care or adoption is necessary and desirable. We question the ability of H.R. 117, as it is now written, to accomplish this regulation.

The major problems we see with the bill in its present form are:

1. There is no vehicle for enforcement.
2. Exclusions from the bill allow circumvention of the purpose of the bill.
3. Sending states are not allowed to be compensated monetarily for placing, seeking to place, or arranging to place a child for permanent care or adoption.

The following recommended changes in the bill address two of these problems. We recommend that subsection B of H.R. 117 be revised to read as follows:

(b) Subsection (a) (1) of this section does not prohibit any person's—

1. Soliciting, providing, or receiving monetary value for seeking to place, placing, or arranging to place any child for permanent care or adoption—

(A) If such person is—

(i) a parent of such child, *eliminate*

(ii) a guardian or any other person appointed by a court to provide for and to protect the interest of such child, *eliminate*

(iii) a person seeking to adopt such child or to provide personally such child with permanent care, or *eliminate*

(iv) a person authorized under or licensed to place children for permanent care or adoption in accordance with the laws of the states where such child is being placed *from or into* for permanent care or adoption.

Items (i), (ii), and (iii) are eliminated from the people or agencies who can collect a reasonable fee for placing or arranging to place a child because of the opportunity these exceptions provide for violation of the intent of the law. Parents and potential adoptive parents would, by this exclusion from the bill, be prohibited from buying or selling children. They are *not* prohibited from placing or arranging to place a child, only from collection or paying monetary compensation. To allow the payment of fees to agencies for placing or arranging to place children, the following provision should be added to the bill: (after Section (b) (1)

(b) (2) Providing monetary value to an agency licensed to place children for seeking to place, placing, or arranging to place, any child for permanent care or adoption—

(A) if such person is—

(i) seeking to adopt such child or to provide personally such child with permanent care, or

(ii) a representative of a licensed agency with the responsibility for the child

(B) if such monetary value is—

(i) paid for services provided in connection with placing, seeking to place, or arranging to place such child for permanent care or adoption, and

(ii) not in excess of an amount which is fair, reasonable, and customarily received for the same or similar services at the time and place such services are provided; or

The elimination of the guardian or court-appointed person (b)(A)(ii) from those who can be compensated for placing or arranging to place a child is absolutely necessary. An unethical attorney could easily circumvent the purpose of this bill by having himself or an associate appointed guardian. He would then be exempt from the provisions of the bill.

These exclusions from the bill leave the licensed agency as the only body which can legally accept compensation for placing or arranging to place a child. This seems reasonable as they are the only party which has legitimate expenses incurred by the actual "placing" or "arranging to place" of a child, i.e. home studies, personnel time.

We do not believe that this alteration of the bill prevents compensation of the biological parent or payment by the adoptive parents for medical or other incurred expenses since these are unrelated to "placing or arranging to place."

The wording of (iv) is changed to include sending state agencies among those who can receive compensation for placing since action by agencies in both sending and receiving states is often necessary.

We recommend that the section concerning legal services remain the same but be renumbered (b)(3) to come after the new section (b)(2).

Even with the recommended changes, a major problem remains: there is no vehicle for enforcement of the bill. The focus of the bill is the receipt of or promise of compensation of things of monetary value. This is almost impossible to monitor as the persons in receipt of such compensation are not likely to report it, nor are the providers of the compensation. Characteristically, the receiver is the attorney, doctor, or other person acting as an intermediary. These persons do not report such compensations. The adoptive parents are generally the persons providing the compensation and are not likely to report other than "approved" expenses for fear of risking removal of the child or related replacement problems. Even when the courts require affidavits, the "under-the-table" payments are not recorded. Effective ways of determining these payments have not been found.

We think it is vital that a law such as this exist which can be enforced when child selling is discovered. However, we fear that this bill can do little to actually seek out and punish the worst offenders.

While this bill has a meritorious purpose, another approach to black market adoptions would be to enforce legislation with built-in protection of children, such as the Interstate Compact on the Placement of Children.

[Telegram]

SPRINGFIELD, ILL., *March 21, 1979.*

Congressman HENRY HYDE,
Capitol One, D.C.

The Illinois Department of Children and Family Services supports your introduction of H.R. 117, interstate placement of children for permanent care or adoption. The issue is of grave concern to all States. This agency is currently conducting an in-depth review of the resolution. The results will be shared with you upon completion. Please notify Mr. Lawrence Rau of my staff of further developments regarding H.R. 117 or if this agency can provide further information.

DONALD H. SCHLOSSER,
Acting Director.